**15.50 hrs.**

## STATUTORY RESOLUTION RE: DISAPPROVAL OF PREVENTION OF TERRORISM (AMENDMENT) ORDINANCE

## AND

## PREVENTION OF TERRORISM (AMENDMENT) BILL,2003

Title: Combined discussion on the Statutory Resolution regarding disapproval of Prevention of Terrorism (Amendment) Ordinance, 2003 and the Prevention of Terrorism (Amendment) Bill, 2003 (Resolution negatived and Bill passed.)

SHRI BASU DEB ACHARIA (BANKURA): Sir, I beg to move:

> "That this House disapproves of the Prevention of Terrorism (Amendment) Ordinance, 2003 (No. 4 of 2003) promulgated by the President on 27 October, 2003. "

THE DEPUTY PRIME MINISTER AND IN CHARGE OF THE MINISTRY OF HOME AFFAIRS AND MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS (SHRI L.K. ADVANI): Sir, I beg to move:

> "That the Bill to amend the Prevention of Terrorism Act, 2002, be taken into consideration. "

SHRI BASU DEB ACHARIA : Sir, this is the third Ordinance which is now sought to be replaced by an Act. During the inter-Session period, as many as seven Ordinances were promulgated by this Government in spite of an observation made by the former Speaker and the first Speaker of Lok Sabha that Ordinances should not be ordinarily promulgated by the Government and that the Government should come forward with a Bill. But here the Government seeks to amend a provision of the Prevention of Terrorism Act. POTA was enacted in the Joint Session of Parliament.

Sir, Prevention of Terrorism Ordinance (POTO), was promulgated in October, 2001. When it lapsed, again it was re-promulgated. It was passed by this House, by a majority vote. Since the Government found that in Rajya Sabha they were in minority, they were not in majority, so this Bill would be rejected, it convened a Joint Session to pass the Prevention of Terrorism Ordinance.

> The Joint Session passed POTO in 2002, in spite of the criticms that were levelled by the entire Opposition. At that time the Government did not listen to the criticisms of the entire Opposition and also to the criticisms made outside the House. This Ordinance was opposed by the people of our country.

What was the purpose of bringing in this legislation? The hon. Home Minister at the time of moving the legislation in this House as well as in the Joint Session of Parliament said that such a draconian law is required in order to prevent the terrorist activities, in order to reduce the terrorist activities and in order to tackle the terrorist activities. This law was enacted one and half years back and the Ordinance was promulgated two years back. I would like to know from the hon. Home Minister as to what is the impact of this law. Has there been any reduction in the terrorist activities? What for is the Government bringing in an aendment? We expressed our apprehensions at that time. The apprehension of the entire Opposition was that there is enough scope for its misuse.

In Section 21 of the Act, there is the definition of terrorist activities. It has a wider scope. Section 21 says:

> "A person commits an offence if:--
>
> a. he invites support for a terrorist organisation;
>
> (2) (a) to support a terrorist organisation; and
>
> b. to further the activities of a terrorist organisation or
> c. to be addressed by a person who belongs or professes to belong to a terrorist organisation;
>
> (3) A person commits an offence if he addresses a meeting for the purpose of encouraging support for a terrorist organisation or to further its activities;
>
> (4) A person guilty of an offence under this Section will be liable, on conviction, to imprisonment for a term

not exceeding ten years or with a fine or with both. "

So, if the Government's intention is to stop the misuse of this Act, the Government should have brought forward an amendment to amend Section 21. The Government is not doing that. Without amending Section 21 where there is wider scope of the definition of terrorist activities, the Government is bringing forward an amendment to give power to the Review Committee which was constituted this year in the month of March. When the Review Committee was constituted, a statement was made by the hon. Home Minister in the month of March. I would like to know whether the Government was aware that this toothless Review committee would have no effect in curbing the misuse of POTA. After six months, the Government is now coming forward to give more power to the Review Committee. I would like to know from the hon. Home Minister one thing. What is his experience in regard to the function of this Review Committee? Are the State Governments, which are blatantly misusing the provisions of POTA, cooperating with the Review Committee or not? What would happen even after the amendment of Section 60?

Section 60 of the Act says that the Central Government and each State Government shall, whenever necessary, constitute one or more Review Committees for the purpose of this Act. This was enacted in the year 2002. The Government felt the necessity to constitute a Review Committee after one year. What is the experience during that year before the constitution of this Committee? After the constitution of this Committee, what is the experience of this Government? Has it any impact on curbing the misuse of POTA by the State Governments?

**16.00 hrs.**

Sir, we expressed this apprehension on the floor of this House and on the floor of the Joint Session of Parliament, and within a month of enactment of this law, a leader of a political party belonging to the Ruling Coalition was arrested under POTA. What was his fault? Why was he arrested? That leader is still languishing in jail. In spite of the majority of the Members of this House − more than 300 − signing a memorandum for his release, he is still languishing in jail. What terrorist act has he committed? During the period of eight months of existence of this Review Committee, what did it do in respect of this particular case?

Then, the Editor of a Tamil Weekly Magazine *Nakkeeran,* Shri Gopal was also subsequently arrested under POTA in Tamil Nadu. I would like to know whether he was involved in any terrorist activity and whether his activities can be defined as 'terrorist activities' under POTA. He is also still languishing in jail.

Sir, you will be surprised to know that in a small State like Jharkhand, 185 persons, the maximum in any State, have been put in jail under POTA. The number of persons arrested under POTA in various States are: Jammu and Kashmir − 89, Gujarat − 69, Tamil Nadu − 42, Delhi − 38, Andhra Pradesh − 36, Maharashtra − 31 and Uttar Pradesh − 28. Till October this year, a total of 301 cases involving 1,600 persons have been registered. In Jharkhand, a boy of 12 years and an old man of 81 have been arrested under POTA. I would like to know whether, after the constitution of the Review Committee, there has been any impact on the misuse of POTA by these State Governments.

Sir, in the State of Gujarat, till October, only 69 persons have been arrested under POTA and all these 69 persons belong to the minority community. In respect of the misuse of TADA, in Bankia case the Supreme Court observed in 1995 that just because the person belonged to a minority community, it could not be assumed that he was a terrorist and there should not be any revenge on political opponents.

Sir, the history of TADA is being repeated today, not as a farce, but as a civil liberty tragedy. What had happened during TADA regime? How many persons were arrested? More than 86,000 persons were arrested. When POTA was brought forward before this House, all of us in the Opposition parties fought tooth and nail against that draconian law. At that time, we were told that it was necessary in order to curb terrorist and disruptive activities. During that regime, 86,000 people were arrested. Out of them, only 2,000 were convicted. Even those 84,000 arrested people were kept in jails for years together. Were their human rights and civil liberties not curtailed? Were the provisions of the Constitution not blatantly violated? The same thing is now being repeated.

During two years of the POTA regime, people have been arrested. Now the Government of India has constituted a Committee. Now he wants to give more teeth to the Review Committee by giving more powers in order to make it binding. Why was that not thought when this Bill was brought forward that it would be misused by the State Governments against their political opponents? We have seen it in Tamil Nadu and Uttar Pradesh. In Andhra Pradesh also, an MLA belonging to the Congress(I) Party was arrested under POTA. Anything can be said under section 21 of this Act. ...(*Interruptions*)

We have seen that Prof. Syed Gilani was sentenced to death by a court under POTA. On an appeal, he was acquitted by the High Court. This highlights the danger posed by this Act to ordinary citizens. He was convicted on

the basis of a dubious telephone intercept that was admissible as evidence under POTA. But later on, the High Court found that there was no evidence against him and he was acquitted. There are several such cases of blatant misuse of POTA. The present Amendment is nothing but a cosmetic change. It will not change the situation. It will not be able to do anything in regard to misuse of the provisions of POTA.

Now the question is this. Is there any necessity for such a draconian law? Would POTA prevent terrorist activities? It has failed to do so. We have enough laws in our country. If those laws are utilised properly and if there is a political will, then only we will be able to curb the terrorist activities. The main intention of this Government is not to curb the terrorist activities but the main intention of this Government is to strengthen its hands by undemocratic law to have more power so that this can be used against political opponents. This is what we are seeing in Tamil Nadu.

Sir, the Chief Minister of Tamil Nadu was threatening to arrest one of the Central Ministers. She was threatening to put them under POTA. Even the Central Ministers are not safe. They are also being threatened to be put under POTA. Such a law they have brought, such a weapon they have given to such an undemocratic, fascist Government which is misusing, harassing and arresting the political opponents and the Central Government is helpless.

With the experience that the Government has gathered during these two years, they should have brought a legislation to repeal the Act. Our demand is not to amend any provision of the Act. By amending a provision of the Act, the misuse of POTA cannot be stopped. Unless a legislation is brought to repeal this draconian Act, the misuse of such a black and draconian law cannot be stopped. The need of the hour today is that the Government should come forward to repeal the POTA. At least, the Government should listen to the voice of the people of our country as to whether there is a need for an undemocratic and draconian law or not. We have seen, during TADA regime, the abuse of TADA was a legion to a point that in a later case the Supreme Court intervened to express shock at its abuse and disappointment over the review process. Several NGOs documented the abuse. After six or seven years a Review Committee, in case of TADA, was also constituted. What was the experience? What happened after the constitution of the Review Committee? What was the observation made by the Supreme Court? "The Supreme Court intervened to express shock at the abuse and disappointment over the review process." Same thing is happening in regard to this Review Committee. Even after amending the provision, giving more powers, making the decision of the Review Committee binding on the Central as well as State Governments, there will not be any improvement in the situation.

Sir, in the case of Jharkhand, this Review Committee wanted a report when it appeared that school children were being arrested. Boys of 11 years, 12 years or 13 years of age were arrested under POTA. I think, they had a connection with the MCC or other such outfits.

MR. DEPUTY-SPEAKER: Shri Acharia, you also have a right to reply. For this, only two hours are allotted and at 6 o'clock, the voting has to take place.

Kindly speak on the amendment, not in general.

SHRI BASU DEB ACHARIA : If I am to speak on the amendment, I will have to speak ...(*Interruptions*)

MR. DEPUTY-SPEAKER: Speak on the amendment only.

SHRI BASU DEB ACHARIA : Unless I speak on the entire Act, such a black and draconian Act...(*Interruptions*)

**श्री प्रकाश मणि त्रिपाठी ( देवरिया) :** उपाध्यक्ष महोदय, आज का विाय एक्ट नहीं है। आज अमेंडमेंट पर बोलना है।

**श्री बसुदेव आचार्य** : एक्ट के साथ ही यह जुड़ा हुआ है। एक्ट के बिना अमेंडमेंट पर चर्चा कैसे हो सकती है। एक्ट पर नहीं बोलें, केवल अमेंडमेंट पर ही बोलें, ऐसा नहीं हो सकता है। इसका मिसयूज हो रहा है।

**श्री प्रकाश मणि त्रिपाठी** : एक्ट पर तो चार दिन चर्चा हुई है। ज्वाइंट सैशन भी हुआ है। वह चर्चा हो चुकी है। आप उसी को दोहरा रहे हैं।

**उपाध्यक्ष महोदय** : एक्ट पर तो काफी चर्चा हो चुकी है और ज्वाइंट सैशन भी हो चुका है। अभी तो केवल अमेंडमेंट पर ही बोलना है।

SHRI BASU DEB ACHARIA : Jharkhand has used the Act indiscriminately, arresting women and children. POTA is used there against the Naxalite Groups like MCC and PWG. Justice Saharia has asked Governments of Jharkhand and Jammu and Kashmir not to arrest women and children under POTA. I would like to know whether the State Governments are following it. I would like to know whether there would be clash between the State Governments and the Central Government. What is the intention of this Government? Why do they want to continue with this draconian law? Our experience is that this Act has failed. We expressed our apprehension and we very clearly and categorically said, when this was brought before the House, that this would fail, this would be misused, the democratic right of the people of our country will be taken away, the right, which is guaranteed by the Constitution, will be denied. That has happened during these two years of POTA regime. That is why we all demand you not only

to bring an amendment but also to withdraw this black and draconian Act. Repeal this Act. We will have to oppose, and we will continue to oppose, if such a draconian law is cast upon the people of our country. We will have to fight against the anti-democratic action of this Government. I demand that the Act should be repealed. Government should withdraw a draconian and black law like the Prevention of Terrorism Act.

**श्री लालकृण आडवाणी :** उपाध्यक्ष महोदय, आज हम एक आर्डिनेंस को रिप्लेस करने वाले विधेयक पर चर्चा कर रहे हैं। देश में टैरेरिज्म बढ़ने के बाद, केवल हमारे ही देश में नहीं, प्रायः सभी लोकतन्त्रीय देशों में, जिनमें कभी भी कोई इस प्रकार के कानून नहीं होते थे, हमारे यहां टैरेरिज्म आने से पहले, कई परिस्थितियों को देखते हुए, स्वीकार किए गए। उन देशों में भी पोटा से भी अधिक कठोर कानून बनाए गए हैं। ऐसे बहुत सारे लोकतन्त्रीय देश है, जहां पर प्रिवैटिव डिटैंशन का कोई कानून नहीं है। बिना अपराध बताए हुए, किसी को बन्दी बनाना, यह वहां पर कभी माना नही गया। लेकिन आतंकवाद को पर 9-11 की अमेरिका की घटना के बाद इस रूप में देखा जाने लगा जैसे मानो कि इस प्रकार का कोई अपराध हो नहीं सकता इसलिए उसे रोकने के लिए सब प्रकार के बाकी रूल ऑफ लॉ के प्रतिबंधों को एक तरफ रख कर कानून बनना चाहिए, हमने ऐसा नहीं किया। आचार्य जी सही कह रहे थे और टाडा में सुप्रीम कोर्ट के जजमैंट को कोट कर रहे थे। सही बात है कि सुप्रीम कोर्ट के टाडा के जजमैंट में कहा गया था कि इसका बहुत दुरुपयोग हुआ और इसीलिए इस प्रकार के कोई कानून बनाए जाएं तो अमुक-अमुक सावधानियां बरती जानी चाहिए, अमुक-अमुक प्रकार के सेफ गार्ड जरूर होने चाहिए। मैं इस बात का जिक्र इसलिए कर रहा हूं कि आतंकवाद से यह देश दो दशकों से पीड़ित रहा है और उससे सब लोग परेशान रहे हैं, जम्मू-कश्मीर और पंजाब बहुत परेशान रहे हैं लेकिन देश के बाकी भाग भी बहुत दुखी रहे हैं। इसीलिए एक वातावरण बना था कि ऐसे कानून होने चाहिए जिन के द्वारा अगर कोई अपराध इस प्रकार का करता है तो उसे दंडित किया जाए और ऐसी स्थिति आने पर उसे कनविक्ट किया जाए। किसी स्टेज पर सरकार ने यह दावा नहीं किया कि पोटा कानून बनते ही आतंकवाद समाप्त हो जाएगा। जिस प्रकार से धारा 302 लाने से हत्याएं बंद हो जाएंगी ऐसा कोई दावा नहीं कर सकता। उसी प्रकार से पोटा के केस में भी कभी यह दावा नहीं किया गया कि इसके कारण आतंकवाद समाप्त हो जाएगा। अलबत्ता मैं जब पूरी बहस का जवाब दूंगा, मैं उस समय बता सकूंगा कि किस प्रकार से पोटा के आने के बाद हम क्या कुछ कर सके हैं, कितनी मात्रा में उसे नियंत्रित कर सके हैं। इस समय इसी बात पर बल है कि पोटा का दुरुपयोग नहीं होना चाहिए। मैं आचार्य जी का यह दृटिकोण समझ सकता हूं कि यह रिपील हो जाए तो उन्हें खुशी होगी, उनके दल को खुशी होगी। यह असाधारण कदम सरकार को क्यों उठाना पड़ा? हमें संयुक्त अधिवेशन बुलाना पड़ा, ऐसा साधारणतः कभी नहीं हुआ। आपकी यह कल्पना गलत है। आचार्य जी की कल्पना यह थी क्योंकि हमें पता था कि हमारी वहां मैजोरटी नहीं है इसलिए हमने संयुक्त अधिवेशन बुलाया, यह सही नहीं है। संयुक्त अधिवेशन केवल तब बुलाया जा सकता है जब दोनों सदनों में मतभेद हों। उस हाउस ने पोटा को रिजैक्ट किया। इसके बाद उसे बुलाया गया। ऐसी बात नहीं है कि हमारे पास बहुमत नहीं था, इसलिए बुलाया। यह बात सही समझ में आती है कि आप यह मांग करें कि पूरा रिपील करो। इस संसद का बहुमत जब यह मानता है कि पोटा जैसा कानून जरूरी है â€¦ (व्यवधान)

**श्री बसुदेव आचार्य :** राज्यसभा में वोटिंग नहीं हुई।

MR. DEPUTY-SPEAKER: Are you yielding to him?

SHRI L.K. ADVANI: Sir, I am not yielding. I am merely telling him that the Bill was not accepted. ...(*Interruptions*)

SHRI BASU DEB ACHARIA : There was no voting in Rajya Sabha. ...(*Interruptions*)

MR. DEPUTY-SPEAKER: Shri Basau Deb Acharia, he is not yielding.

SHRI L.K. ADVANI: If you have seen the Constitution, only when there is a difference between the two Houses − one House adopts a motion and the other House does not adopt it − only then, a Joint Session can be convened. We cannot convene a Joint Session only on the basis that the Rajya Sabha is not going to pass it. Only when the Rajya Sabha does not pass it, only then, the Government is entitled to call a Joint Session. It is after that.

It is a factual situation जिस का मैं जिक्र कर रहा हूं। मैं जो बात कह रहा हूं वह यह है कि This conception of a review committee was not made late. It is a part of the original Act. उसमें फर्क यह है कि एक रिव्यू कमेटी का जिक्र तीन क्लॉसिज में पहले भी है और उनमें आम तौर पर रिव्यू कमेटी का जो निर्णय होता है वह बाइडिंग होता है लेकिन सैक्शन 60 में जो रिव्यू कमेटी का जिक्र है, उसके बारे में संदेह प्रकट हुआ कि बाइडिंग होगा या नहीं। स्टेट की जो रिव्यू कमेटी है और जो भी एब्यूज के केसेज हैं, उसमें हमारे एक संसद सदस्य को गिरफ्तार किया गया। मैं समझता हूं कि पूरे के पूरे सदन को यह लगता था कि यह गिरफ्तारी उचित नहीं है। सरकार की ओर से कोर्ट में इस मामले में एक ऐफिडेविट दिया गया है जो स्पट रूप से यह कहता है कि यह गिरफ्तारी उचित नहीं है और उसके कारण यह मामला रिव्यु कमेटी के पास गया।

SHRI DALIT EZHILMALAI (TIRUCHIRAPPALLI): What is there for the Central Government to say when the State Government is enforcing the law? Enforcing the law is in the hands of the State Government.

SHRI L.K. ADVANI: Yes, it is.

SHRI DALIT EZHILMALAI : Then, where is the question of the Central Government going to file an affidavit in the Supreme Court?

SHRI L.K. ADVANI: Therefore, let us understand that so far as law and order is concerned, it is not merely this law, POTA, but even the simple provision of the Indian Penal Code can be abused by any Government. I can give you hundreds of examples. In fact, here in this country we have a provision in the law or in the Constitution which is of a draconian nature. Article 356 is a provision in the Constitution which perhaps no other federal Government would accept. It is nowhere in other federal Constitutions, but we have it in the Indian Constitution.

I remember this. You go through the debates of the Constituent Assembly. There were Members of the Constituent Assembly who said that this would be abused. The then Law Minister, Dr. Ambedkar expressed the hope that this would remain a dead letter that it would not be abused, that it would be used very rarely. What has happened actually?

SHRI BASU DEB ACHARIA: It is abused.

SHRI L.K. ADVANI: Yes, but let me tell you that when we came to power, I was in the Government. We came to power after the Emergency. A proposal was made to that Government to repeal article 356, to repeal article 352, and we did not agree because we felt that the Constitution makers had been essentially correct in wanting provisions like articles 352 and 356.

Shri Basu Deb Acharia, I am telling you that simply because a law is abused and, therefore, that law should be repealed is an approach that no Government can adopt, though every law should not be abused. I am happy that at least when Shri Basu Deb Acharia spoke, he did not make any allegation that this particular law of Prevention of Terrorism Act (POTA) has been abused by the Central Government. He referred to certain State Governments. It has not been abused. ...(*Interruptions*) I am not yielding. I am merely mentioning the fact. ...(*Interruptions*)

MR. DEPUTY-SPEAKER: Nothing will go on record except the speech of the hon. Minister.

*(Interruptions)* *

**श्री लालकृण आडवाणी : मेरा निवेदन यह है कि जो औरिजिनल विधेयक है, उसमें सेफ गाड्र्स प्रोवाइड किये गये हैं जिनका जिक सुप्रीम कोर्ट ने टॉडा के संदर्भ में किया था। तब हमें लगा कि सैक्शन-60 में इसका प्रोवीजन है जिसके अधीन सैंट्रल गवर्नमेंट और स्टेट गवर्नमेंट्स रिव्यु कमेटी बना सकती हैं। वह रिव्यु कमेटी इस बात को देखेगी कि इसका उपयोग केवल मात्र टैरेरिस्ट्स के खिलाफ हुआ है या अन्य कारणों से हुआ है। हमें लगा कि जब तक इसका प्रोवीजन किया गया है, संभव है कोई कहे कि यह एडवाइजरी है, बाइंडिंग नहीं है** This particular provision which has been brought in is for two purposes. मैं इस बात को स्पट करना चाहूंगा कि अगर रिव्यु कमेटी इस नतीजे पर पहुंचती है कि जिस उद्देश्य से यह कानून बनाया गया है, उस उद्देश्य के लिये इसका उपयोग नहीं किया गया है तो रिव्यु कमेटी उस बारे में जो कुछ कहेगी, स्टेट गवर्नमेंट या सैंट्रल गवर्नमेंट के लिये बाइंडिंग होगी। अगर एक ही शिकायत दोनों स्टेट कमेटी और केन्द्रीय समिति के पास की गई है जिसमें एक कमेटी का दृटिकोण एक है और दूसरी कमेटी का दृटिकोण दूसरा है तो जो यह आर्डिनेंस लाया गया है, इसे रिप्लेस करके सदन में विधेयक पारित होने वाला है, उसके अधीन दोनों के लिये बाइंडिंग होगी। इसमें कोई नयी बात नहीं है, प्रोवीजन पहले ही है। मैं माननीय सदस्य की बात समझ सकता हूं। वे चाहेंगे कि यह कानून बिलकुल ही समाप्त कर दिया जाये जिससे सरकार सहमत नहीं है। सरकार मानती है कि आज भी देश में टैरेरिज्म एक गम्भीर समस्या है. उस गम्भीर समस्या का मुकाबला करने के लिये इस प्रकार का सख्त कानून जरूरी है और उसे बनाये रखना चाहिये ।अलबत्ता इस बात की कोशिश हमें लगातार जरूर करनी चाहिए और संसद उसमें हमारे साथ सहमत होगी कि इस कानून का दुरुपयोग कोई सरकार न करे, न केन्द्रीय सरकार करे और न कोई राज्य सरकार करे और इसी दृटि से यह कानून लाया गया है। मैं आशा करता हूं कि जो लोग पोटा के समर्थन में चाहे नहीं होंगे, वे इस बात का समर्थन जरूर करेंगे कि पोटा का दुरुपयोग रोकने के लिए यह जो कदम उठाया जा रहा है, वह उचित है और यह कदम उठाया जाना चाहिए।

। Not Recorded.

SHRI PRIYA RANJAN DASMUNSI (RAIGANJ): Mr. Deputy-Speaker, Sir, I have heard the response of the hon. Deputy Prime Minister to the disapproval notice moved by Shri Basu Deb Acharia.

First of all, I would like to make one point very clear. From our party − and I hope, rest of the Opposition − we have no two opinions about the fact that we have to fight terrorism together in this country. Our party is second to none in the desire to see that the roots of terrorism, be they within India or outside, are completely eliminated. I would like to repeat it today that our party has been the greatest victim of terrorism in this country. In the beginning, we lost Mahatma Gandhi in the hands of religious terrorists. Later, we lost Shrimati Indira Gandhi and Shri Rajiv Gandhi. We have also lost to terrorism many innocent civilians, *jawans*, BSF personnel, politicians and social workers. Every day, they are losing their lives. So, the entire Parliament is against terrorism. But can terrorism be dealt with only by law and by no other arrangement or no other mechanism? I will come to that point later because the time is limited and I cannot lengthen my speech.

At least − or, at last − the hon. Deputy Prime Minister has conceded that there is misuse of POTA. When I got the first Ordinance notice in my office on the powers of the committee to review POTA, believe me, - and do not take it otherwise − I found it more to be a review of their coalition exercise than a review of POTA. I know the position of the Deputy Prime Minister. He is in a Catch-22 situation, caught between two of his friends in Tamil Nadu. For keeping one side happy, he has to say that they are reviewing it and giving powers to the committee to review it. Ultimately, if that committee is satisfied, it would give directions to the State Government and the directions would be mandatory. I know his problem. He should not try to sell his problem as the problem of our country.

All of us respect our distinguished colleague Shri Vaiko. We may not agree with his political philosophy. We may not agree with his public speeches. But those are different issues. As a distinguished Member of Parliament, elected by the people, he is confined in a jail. They sent their Ministers to see him. None less than the Minister of Defence, who is in charge of the security of the nation, was sent to see him. They genuinely felt that it was a wrong doing on the part of the Government of Tamil Nadu. Why should he send his colleague the Minister of Defence to call on Shri Vaiko in jail, who according to their Act is technically a POTA detenu? It is because politically, he is a friend of their coalition and is a partner. I understand that you are in a catch-22 situation. Mr. Deputy Prime Minister, you have very nicely said that after all, who abuse the power? It is not the Union Government. It is true. Your jurisdiction is limited to Delhi. But to take people into custody under POTA is up to the State Government − whether it is Gujarat, Himachal Pradesh, Uttar Pradesh or any other State. Therefore, you have very nicely conveyed a message to another partner, DMK, that it was an exercise so that they console themselves. But, at the same time, you convey a very intelligent message to other partners or other friends from outside, on issue-based support, that ultimate power lies with you. If you do not give direction, it will not be mandatory on you. So, that way, this is a very wonderful exercise.

I should say, Mr. Home Minister, that you are laying a precedent for the future that if at any time we are in coalition and we face such kind of a problem, we should follow your pattern and that our name will go in history. I should honestly admit that.

Mr. Deputy Prime Minister you ruled out all our apprehensions when POTA was brought here. Did we not say it could be, misused? Did we not say it could happen? At that time possibly your IB checked up the dossiers of the Chief Ministers of all the State Governments and did not report you correctly at that stage that it could happen in Tamil Nadu in the case of Vaiko because at that time, if I am not on record, your Minister of Law had the capacity and competence to say that the way the then Governor, Fatima Bibi had asked Jayalalithaa to take the Office of Chief Minister was wrong. One of your colleagues said, wrong and the poor lady, the Governor, Fatima Bibi, the Muslim lady, a former jurist, had to go in oblivion. At that time, you forgot review, you forget anything because you were solid with one and you did not want the other. When you found things were crystallising from both fronts, then you thought how to dispose this case of Vaiko? I think, the Vaiko case compelled you to bring this Bill. It is a wonderful political exercise. I do not know which side my friends from Tamil Nadu from both sides will play their role today; during the time of voting only we will understand which side they will vote.

The DMK Party's leader, Shri M. Karunanidhi, was badly assaulted and hacked two years back. Then, again, the Union Government rushed to make comment whether this hacking was right or wrong. He brought his party to the street demanding the repeal of the Act.

I understand, yesterday, an Adjournment Motion was moved and something was there in the media for the repeal demand. If something has not changed within the last 24 hours and if you are successful to convince them that this will ultimately help them, and at the same time you have told telephonically to the Leader of the State Government that it will also help them, unless that kind of exercise has been completed, I do not know the fate of these two parties in regard to this Bill.

Now, I am coming back to my Party. Yes, we have been in Office for the last so many decades. We do not deny the fact that it is we who introduced the Maintenance of Internal Security Act (MISA), it is we who felt that substantial misuse had been done and it is we who introduced TADA and saw the approach of the Supreme Court and TADA's effect − use and misuse. We brought the repeal. We do not deny it. As an Opposition, what can we offer to a Government? Only you can offer. We are not in Opposition just for Opposition's sake. We are in Opposition. Having been on that side more than you and you are a Ruling Party having been on this side more than us, we can afford to share our experience and wisdom with you. It is up to you whether you accept it or reject it.

We did say it candidly, without hiding any fact. Yes, we used TADA; we used MISA. We felt these were the dangerous things. At the end of the day, we felt sorry and we brought repeal Bills. We said it.

Now, Mr. Deputy Prime Minister, you say in the Statement of Objects and Reasons of this Bill − "in order to have an effective safeguard". Till Shri Vaiko was detained, it was only a 'safeguard'. Now the additional word 'effective' is added. The Deputy Prime Minister of the country, in charge of internal security, dealing with terrorists, felt only a year before 'safeguard' is enough. Now he understands by the experience that if 'effective safeguard' is not given,

the coalition may be at stake.

What is effective safeguard? Effective safeguard is 'likely misuse of the power conferred by this Act'. Again, I should say one thing to the hon. Deputy Prime Minister. Sir, you are wise, you are intelligent not to say 'misuse was there'. You said 'likely misuse, if something is done tomorrow'. But, unless a Government is convinced misuse is there, how can the Government come forward with an amendment? If you apprehend 'likely misuse' today, then what did you do when the Congress Party, Shri Mulayam Singh Yadav, the RJD and everybody said about likely misuse? You said − no. You have to explain the justification of it. I am not taking it lightly. You have to explain what is that apprehension. You yourself said the State Governments will execute, and in most of the cases it is the State Government and not the Union Government.

Do you feel it was a misuse in Gujarat or it was a misuse in Tamil Nadu? Let us candidly share it. We want to share your experience and wisdom. In one case of Gujarat you found 'X' number of people of a particular community could be dealt with under POTA and in other case you found they could be dealt with under POTA, till they got a stricture from the Supreme Court about the performance in the Best Bakery trial. Twice the Government got strictures and yet you felt POTA is not enough for Shri Modi to detain him also under the same Act. Do you feel that it was a misuse? What is your experience? You share it with us. If say − 'Yes, as a Deputy Prime Minister even I feel that it was a misuse in Tamil Nadu, it was a misuse in Gujarat, it was a misuse in Jharkhand where the school children were held under POTA, it can be a misuse tomorrow elsewhere and that is why I came up as the Deputy Prime Minister, forgetting all shades of public opinion and political opinion and as a custodian of the Constitution, being the minister in charge of internal security, I brought the amendment' then I can justify and I can rethink and I can convince our Party colleagues that − 'yes, the time has come; the Home Minister has shared his wisdom and experience with many other State Governments' activities with the Parliament and let us reconcile, let us not straightforward outrightly reject it'.

But you are not doing so. You said 'likely misuse'. It was not a misuse then. Then, what happened in Jharkhand with regard to the school children? What happened in Gujarat? It was not misuse!

I tell you, Mr. Deputy Prime Minister, in a few States − I will not tell the names and the Chief Ministers are all respected persons and I will not bring their names also − the Members of this House, cutting across party lines, apprehended fear that if they go too much, they may be brought under this Act. They felt it. If some of them have conveyed to you their fears and for that reason you brought it and you do not want to disclose them, I do not mind. But at least, if you share it sincerely with us, I will understand your objective sincerity of bringing in this amendment.

Sir, how to fight terrorism? I am not a master. The entire country, the people of India should be motivated to fight terrorism. The defence of the country is not men in uniform with guns. The defence of the country is its foreign policy; the defence of the country is its economic policy; the defence of the country is its human resources and the defence of the country, above all, is the patriotism.

Now, you want to fight terrorism. Mr. Home Minister, this is not the occasion to ask you questions like how many have been arrested, how many have been killed and the like. I do not want to do that. It is a political thing.

Mr. Deputy-Speaker, Sir, I had been to Qatar, Doha. My colleague, Shri V.M. Sudheeran happened to be there on that day. I repeat it. You can check it from your intelligence agencies. The North Indian community gave me a reception. It was not on political ground. Since I just went there, they wanted to share their business feelings etc. with me. The very same day, I had the occasion to get an audience with the *heir apparent*. The North Indian community told me that they were all happy and they were doing better jobs there. They told me that India is supreme there, but also said 'हम लोग सिर्फ एक बात के लिए चिंतित हैं। वह क्या है तो कहा कि आप लोग जो भी करें परन्तु थोड़ी इज़ायल के साथ हमदर्दी बढ़ाएंगे तो हमें अरब में काम करने के लिए लोग शक की नज़र से देखेंगे।' This was only a sentence. I took it very seriously. I thought whether it was something that we were doing wrongly. Then, I checked up. The United States took all initiative for the so-called peace accord etc. etc. One of their companies is Coca Cola which originates from Atlanta. In my sports' connection, when I asked Coca Cola 'Do you sell Coca Cola in Israel?', they said 'No, we do not. If we sell Coca Cola in Israel, Coca Cola will not be consumed by rest of the Arabs.' So, America does not mind that. They do not sell Coca Cola in Israel because they lose the market in the rest of Arab countries.

Hon. Deputy Prime Minister is one of the architects of improving our relations with every other country and I thank him for that. If he does that in the interest of our country, why should we object to it? But I think, the Government's policy deviation from time to time is creating a situation where the youngsters of the country, if it is not dealt with seriously, will misunderstand me, you and all. What is that point? The point is that in the North-East, you are in dialogue with NSCN. It is true that we support it if there is a peace accord. But if you have a dialogue without involving the political forces, who at the cost of everything embraced India, *Ashok Stambh* and flag of India saying 'Yes, we are with India. We are not with anybody else.', it is not good. If their confidence is not maintained and if they are killed or abused day in and day out and they have the fear that Manipur will be expanded or reduced, or

Nagaland will be expanded or reduced, it is not good for our country. Do you think that simply signing an accord will bring an end to terrorism and do you guarantee that new outfit will not begin? Mr. Deputy Prime Minister, you are lacking there.

I met very important functionaries of the North-East. They conveyed to me that they were the first to embrace Independent India and joined with Pandit Jawaharlal Nehru. They said that now, such things were going on and they were not even consulted about the fashion in which things are proceeding. One person, Shri Padamanabaiah, a retired bureaucrat, can bring one paper from Issac Muivah, but if thousands of people of the North-East are not taken into confidence, I think that is not enough.

Now, I come to the problem of Naxalites. You may not call them terrorists or extremists. Did you consult the concerned Government of the States - be it West Bengal, Andhra Pradesh or Maharashtra − about the latest status of land reforms there? Naxalbari began from the border of my constituency. I can tell you hon. Deputy Prime Minister that where there is a genuine land settlement, genuine land reform, the Naxalite problem did not carry on for a long time and where there are still false *benami* landholders, *zamindars* exploiting the *kisans*, this problem is persisting there. You can have a meeting with the concerned State Government to look at what the progress of land reforms in their areas is. You cannot simply bring an act and say that everything will be solved if I am armed with this Act. No, this is not the case. Mr. Deputy Prime Minister, internal security is such a thing that you should be impartial. You are our Deputy Prime Minister also. When I wrote a letter to you, you acknowledged it, but you did not act on it.

I can cite examples from your own POTA. The provisions of the POTA are applicable to some of the outfits, which are outside Parliament, which are inciting the people in the name of religion, challenging the Office of the Prime Minister and threatening the Parliament by saying that if what they want is not done, they will do this and that. None of them was taken cognizance either by you or by any State Government. I do not want to take their names as long as my friends from the other side do not interfere or irritate me. The Home Minister knows who they are. Even if the Home Minister wants to protect them, at least, the Prime Minister knows who they are.

They are speaking horrible kinds of things. I can understand if Azhar Mahmood speaks like that in Pakistan that unless he gets what he wants, he will do this and that in the name of Islam. India is a secular country where there is democracy. In spite of this Act, how can the leader of a particular religion go on saying, "I will train you like this. First, I will begin with *Trishul*, then we will train you in handling shotguns. You have to do this. If it is not done, we will do that." The photographs of the shotguns were published in newspapers. Forget about booking them under POTA. There was not even a reprimand by the Union Government or, at least, by their party functionaries. This is not the way to run the things. This is what is happening in the country.

I know that most of the terrorist activities -- why most, almost all -- are being perpetuated and backed by Pakistan. What is the international opinion about this? Till the World Trade Centre in America was attacked, the issue of terrorism did not take any international dimension. Okay, they are a big country and it is their problem which they will deal with. However, till this date, is there any international opinion or initiative which has been taken to see that Dawood Ibrahim is sent back to India? You could not bring back Dawood Ibrahim, and you could not bring back Abu Salem. When Shri Ram Jethmalani was the Law Minister, you had signed a Treaty with UAE. Till today, you could not even ask Mr. Tony Blair or others that do not do anything, but at least, condemn Pakistan, which is patronising those people. They do not condemn it. I can refer to the record in the House of Commons. When this question was raised there, he did not condemn it. He did not refer to it by name. He said, "We oppose terrorism in whatever form it is." It is a vague statement; it could be given by anybody in the street.

I am talking about the Government of India. ...(*Interruptions*)

**डॉ.विजय कुमार मल्होत्रा (दक्षिण दिल्ली) :** आप एमेंडमेंट पर बोलिये न।

**श्री प्रियरंजन दासमुंशी** : हम अगर आपसे सलाह लेकर कांग्रेस पार्टी का बयान तैयार करेंगे तो कैसे काम चलेगा।

DR. VIJAY KUMAR MALHOTRA : You have not spoken one word on the Amendment.

SHRI PRIYA RANJAN DASMUNSI : इन लोगों में पेशेंस नहीं है, कोई भी अच्छी बहस हो. I am coming to the Amendment. ...(*Interruptions*) इसमें प्लीज की क्या बात है? I am not going to please you. I am going to please my conscience. I am going to speak till the time the Deputy Speaker, and not you, permits me to speak. You can please Shri Togadia, but I am not going to be pleased by you.

Mr. Deputy-Speaker, Sir, in spite of the strong measures that were passed in a Joint Session of the Parliament, ultimately, the authority and the power is left in the hands of the State, and they can be misused in a draconian fashion. In this context, yesterday, a gentleman was allowed to come to Parliament in the afternoon, but by late evening, another Bench stopped him from attending the Parliament Session. I agree with it and I am not questioning

the *bona fide* of the judiciary. I am talking about the threat posed by the misuse of this law.

If you feel genuinely that fundamentalist forces are spreading terrorism from across the border of Pakistan in the name of a particular religion, they should be dealt with ruthlessly. I agree with you on that. However, if a sitting Minister of the Government, before he resigns, openly says that international Christianity is creating problems in this country and that he is a victim of that, that is not a healthy sign of a Government. The Government has to deal with these things very carefully.

The Home Minister brought this amendment only to impart some credibility to POTA. However, the entire Opposition − I do not know about DMK and AIADMK − refuses to impart that glory to the credibility of this draconian law. The Government, therefore, should withdraw POTA lock, stock and barrel. The Government should bring a repeal Bill before the House. The Government should revise its policies internationally, economically and socially. If the Government uses a law against fundamentalists, it should do so against the Muslim fundamentalists as well as Hindu fundamentalists who spread terror. It is only then that the sincerity of the Government will be recognised by the people of the country.

**श्री प्रकाश मणि त्रिपाठी (देवरिया) :** उपाध्यक्ष महोदय, मैं प्रिवैंशन ऑफ टैरोरिज़्म एक्ट अमैंडमैंट, 2003 का समर्थन करने के लिए खड़ा हुआ हूं। यह साधारण सा बिल है। आदरणीय गृह मंत्री जी ने इसके बारे में काफी कुछ कहा है, इसलिए इसके बाद बहुत ज्यादा कुछ कहने के लिए नहीं बचता है। खासकर मैं इस बात को भी समझ रहा हूं कि अगर इस बिल पर दो ही घंटे दिए गए हैं, जिसमें से एक घंटा पहले ही ले लिया गया है, तो किसी और को बोलने का मौका ही नहीं मिलेगा।â€¦ (व्यवधान)

MR. DEPUTY-SPEAKER: Shri Prakash Mani Tripathi, they have 24 minutes to their credit and there is no other Member to speak from their side. . The hon. Member took two minutes more than that. Please do not pass such insinuations against the Chair.

**श्री प्रकाश मणि त्रिपाठी :** वह तो ठीक है। क्या इज़राइल में कोका कोला नहीं बेचा जा रहा है? नक्सलाइट मूवमैंट में लैंड रिफार्म्स अच्छे होने चाहिए, यह पक्का वायांतर हुआ है। पूरा सदन इस बात को समझ रहा है कि वायांतर हुआ है। वह वायांतर मैं नहीं करने जा रहा हूं, यह हम आपको बता रहे हैं। मुंशी जी ने कुछ स वाल जरूर पूछे हैं। उन्होंने एक सवाल यह पूछा है कि क्या लॉ बनाने से टैरोरिज़्म खत्म हो जाएगा? ऐसा किसी ने दावा नहीं किया है कि लॉ बनाने से टैरोरिज़्म खत्म हो जाएगा। लेकिन क्या उसकी वजह से हम लोग इस देश में लॉ बनाना बंद कर दें । यह लॉ ऐबाइडिंग देश है। इसमें लॉ बनाना, उसकी वजह से बंद कर दिया जाए? धारा 302 होते हुए भी हत्याएं हो रही हैं, इसलिए धारा 302 को हटा दिया जाए? यह किस तरह का आरग्यूमैंट है, यह हमारी समझ में नहीं आया।

उन्होंने एक सवाल और पूछा था कि हमारी सरकार कैच 22 पोजीशन में है। अगर सच देखा जाए तो इस वक्त कैच 22 पोजीशन में प्रतिपक्ष है और वह पोजीशन यह है कि एक कानून साल भर पहले बनाया गया, सरकार संवेदनहीन नहीं है, संवेदनशील है, उसमें देखा गया कि कुछ कमियां नजर आ रही हैं। अगर गृह मंत्री जी खड़े होकर प्रतिपक्ष से शेयर करें तो वह उनके ऊपर है। मैं यह मानता हूं कि आदरणीय मुंशी जी ने जो कहा है, वे कमियां सबको दिखाई पड़ रही थीं। वे ऐसी कमियां नहीं हैं जिनके बारे में बहुत चर्चा करने की जरूरत है। इस संवेदनशील सरकार ने तुरंत उन पर एक असाधारण राजपत्र जारी किया, गजट ऑफ इंडिया, एक्सट्रा आर्डीनरी जारी किया। उसे देखते हुए जारी किया। यह अनुभव से जारी हुआ है। हम ऐसे-ऐसे उदाहरण दे सकते हैं, जो कानून 1981 में बने हैं।

## 17.00 hrs.

वे ऐसे कानून बने हैं जिससे कि पूर्वी भारत की जनसंख्या की तस्वीर बदल गई है। ऐसे भी कानून बने हैं और आज तक वे बदले नहीं गये हैं। यह हमारी सरकार है कि इस बात को सोचकर कि अगर कोई कमी है लेकिन एक बहुत बड़ी कमी जो इस चर्चा में है कि अगर थोड़ा वियान्तर होता है तो उससे बहुत बड़ी बात नहीं है लेकिन एक कमी जरूर होती है और यह पूरे सदन को मालूम है कि हमारी सरकार आतंकवाद को खत्म करने के लिए कटिबद्ध है और उसके लिए जो-जो औजार चाहिए, जो-जो कानून चाहिए, उसको लाने के लिए कटिबद्ध है। उसका गलत इस्तेमाल न हो, इसके लिए भी हमारी सरकार कटिबद्ध है और इन तीनों चीजों के साथ-साथ चलना पड़ेगा। इसमें कोई विरोधाभास नहीं है। पूरा भारत आतंकवाद में जल रहा है, यह पूरा सदन मानता है और इसके लिए जो कठोर कानून की जरूरत है, इस कठोर कानून को हम लोग वापस करने के लिए हमारा कोई इरादा नहीं है लेकिन उससे साधारण जनता को परेशानी हो, उसका निवारण करने के लिए हम हर प्रयास करेंगे। उसी प्रयास की कड़ी में यह अमेंडमेंट यहां पर लाया गया है। बहुत साधारण सी बात है लेकिन हमारे प्रिय वक्ता की खासियत यह है कि कोई साधारण चीज ऐसी नहीं है जिसको वह कौम्पलीकेट नही कर सकते हैं। इतनी बड़ी बात नहीं है, बहुत साधारण बात है कि हमें कठोर कानून एक तरफ चाहिए और वामपंथी दल जो डैमोक्रेसी की बात करते हैं, वे डैमोक्रेसी की बात न करें तो अच्छा रहेगा। कौन सी डैमोक्रेसी चलाई जा रही है जहां पर आतंकवाद इस तेजी से बढ़ रहा है ? â€¦ (व्यवधान) एक संदेश इस सदन से अकसर जाता रहा है और वह संदेश यह रहा है कि आतंकवाद को हम ह्यूमन राइट्स के साथ ही साथ आगे बढ़ाए। इस विचार में कोई खराबी नहीं है और और कल हमने एक अखबार में पढ़ा है : "This POTA is a joke." यह हमने अखबार में पढ़ा है और सचमुच जो आतंक वाद से नहीं लड़ रहे हैं या जो नहीं लड़े हैं या जिन्होंने आतंकवाद का नंगा चेहरा नहीं देखा है, उनको जोक लगता है लेकिन हमारे लिए आतंकवाद ही सबसे बड़ा जोक है और इसके लिए हम लोग नहीं समझेंगे तो यह बात बार-बार सामने आएगी। आज का विाय पोटा हटाने का नहीं है। उसके बारे में पहले ही काफी बात हो चुकी है। 5-6 दिन इसी पर लगाये गये थे जब सरकार पोटा का कानून ले आने के लिए कटिबद्ध थी और आज भी कटिबद्ध है पोटा या कोई भी हथियार जो आतंक वाद से लड़ने के लिए है, उसको हटाया नहीं जा सकता। इसलिए उसके बारे में बात करना बेकार है। आज हम केवल यह बात करना चाहते हैं कि इस कानून से हम किस तरह वह बैलेंस दे सकेंगे जो कि अकसर राज्य सरकारें हो सकता है उसका गलत इस्तेमाल करें, उसको बैलेंस देना है और जब केन्द्र सरकार को यह अधिकार दिया जा रहा है तो सचमुच यह अधिकार हमारे सांसद को दिया जा रहा है जो अपने विवेक में देखेगा कि किसी के साथ ज्यादती न हो।

17.05 hrs. (Dr. Raghuvansh Pratap Singh in the Chair)

बहुत साधारण कानून है और यह कानून सैक्शन 60 में अमेंडमेंट करके है और उसमें दो-तीन और प्रावधान जोड़ने के लिए है और वह प्रावधान यह है, कोट कर रहा हूं :

"Without prejudice to other provisions of this Act, any Review Committee constituted under Section 1 shall, on an application by any aggrieved persons, review whether there is a *prima facie* case for proceeding against the accused under this Act and issue directions accordingly. "

अर्थात् शुरू में ही जरा भी अगर शक है तो एक ऐसा प्रावधान दिया जा रहा है जो शुरू में ही उसको खत्म कर दे और किसी तरह का हैरेसमेंट या परेशानी उस आदमी को न हो। दोनों जगह प्रदेश में भी और केन्द्र सरकार में भी कमेटीज बनाई जा सकती हैं। अगर किसी वजह से इन दोनों के विचारों में मतभेद हो या प्रदेश सरकार कुछ जबर्दस्ती करना चाहती हो, उस हालत में केन्द्र सरकार और देखा जाए तो यह सदन सर्वोपरि रहेगा। ये दोनों चीजें बहुत छोटी-छोटी यहां पर लाई गई हैं। कैच 22 का जिक्र आता है कि जब कानून बनाया जा रहा था, तो उसका घोर विरोध हुआ। अब उस कानून से उपजी हुई जो कमियां हैं, उससे लोगों को राहत देने की कोशिश कर रहे हैं। उसका क्या किया जाए, क्या उसका विरोध किया जाएगा। मेरे ख्याल से इस बात पर तो सर्वसम्मति है कि कोई भी कानून या संशोधन ऐसा नहीं है, जिससे सभी बीमारियां खत्म हो जाती हों। किसी के पास ऐसी अमृतधारा नहीं है। लेकिन यह एक कदम है, जिसको संवेदनशील सरकार ने कमियां देख कर उठाया है। पहले राजपत्र के माध्यम से और अब बिल के माध्यम से यहां लाए हैं। मैं कहूंगा कि पूरा सदन इसको जल्द से जल्द पारित कर दे।

DR.M.V.V.S. MURTHI (VISAKHAPATNAM): Mr. Chairman, Sir, the Prevention of Terrorism (Amendment) Bill, 2003 is to relax the existing POTA.

Formerly, there was no provision even to review an alleged offence by any of the detenu. Now, at least this amendment, brought forward by the hon. Deputy-Prime Minister provides a way out. So, this is an acceptable and a welcome sign.

I would like to say that this is a very stringent law. Okay, it is accepted. But at the same time, even after having such deterrent laws and stringent provisions, terrorism is on the increase. Now, we are not able to curb this.

Recently, our hon. Chief Minister, Nara Chandrababu Naidu was attacked by terrorists. Even then, POTA was not imposed. When such crimes are occurring, if such laws are there, at least it would work as a deterrent. So, we need not object to it. But at the same time, it should be used very judiciously. I have no two opinions on this. The law should exist, but we should use it judiciously.

I will tell you. Our Chandrababu Naidu was not willing to use POTA. Earlier, one of the MLAs was arrested. One of the hon. Members said that she should be arrested under POTA. But the Chief Minister said, 'no' to that. Konda Surekha, MLA, Andhra Pradesh Assembly was arrested. There was a suggestion that she should be booked under POTA. Immediately our Chief Minister said, "We do not use POTA simply because somebody else said so". To give the benefit of doubt, we do not use it. If there was a strong case, maybe, we will use that. That was the stand he has taken. He did not want to use it to politically suppress people.

Today we are having so many problems. All our energies are being wasted to track down terrorists, extremists, naxalites and all such people. What is wrong in having a law for this? Basically, we should not object to this law simply because the present Opposition Party, when it was in power, had introduced TADA, MISA and such other draconian laws. We should accept it since it is in the interest of the country. At the same time, if its certain provisions are misused, we should object them.

An amendment to section 60 will provide for a review by the State Government and the Central Government but review by the Central Government will be final. I do not see any problem in accepting this amendment. I strongly feel that we should pass it. There may be some shortcomings. We should not bother about them. As and when we find any shortcoming, Parliament can review it and bring more amendments. *Prima facie* we should not say that POTA should be repealed. This is not a wise decision. I feel that we should pass this amendment without much discussion. Thank you very much for the opportunity given to me.

SHRI VARKALA RADHAKRISHNAN (CHIRAYINKIL): On behalf of my Party, I may be allowed to speak.

MR. CHAIRMAN : Shri Basu Deb Acharia has moved the Motion.

SHRI VARKALA RADHAKRISHNAN : He has moved the Statutory Resolution. I have also given a notice for it. I have a right to participate in the discussion.

I very much plead for the repeal of the statute *in toto.* There is no justification for continuance of this statute in a democratic India. I will speak on two lines; firstly on the residual issue of Ordinance.

Ordinance is provided as an extraordinary measure. Only in unforeseen, unexpected circumstances this power can be made use of by the Executive. Here is a case when the situation was there in existence long before. I shall refer to a statement by the hon. Deputy Prime Minister on the floor of the House.

"Although a *suo motu* statement made by Deputy Prime Minister Shri L.K. Advani in the Lok Sabha made it clear that the committee was appointed under section 60, its brief went well beyond what was envisaged by the Act. Noting Members' concerns that the provisions of this law were invoked "even

against such persons" and acts which do not fall within the ambit of this law "

Shri Advani had admitted that the matter was serious enough to warrant an invocation of the Central Government. So, the Government was fully aware of this position when the House was in Session last time. It was a lengthy Session. The Government did not take any action to amend this law. So, it is highly improper and undemocratic to pass a statute like this through an Ordinance. It could have been done after a full discussion in the House and then it could have been passed. Such a course was not followed by the Government and hence it is against the democratic principles and I oppose this Ordinance.

What was the purpose of this Ordinance? Its purpose was to prevent terrorism in the country. I do not argue that terrorism can be effectively controlled by a mere statute. I am not mad enough to say that terrorism can be controlled through an Ordinance. It is not possible. Take the case of implementation of POTA in the country. What exactly has happened? There is nothing more than misuse. There is a history behind this statute. Earlier, Shrimati Indira Gandhi had introduced the Maintenance of Internal Security Act which was thoroughly misused.

Another statute was brought in TADA. That was also thoroughly misused. The Supreme Court ruled that this law should be abrogated. That was also the advice of the Law Commission. So TADA was misused and MISA was also misused. Now following the very same procedure, the POTA is being misused.

I may be permitted to quote some of the newspaper reports. *The Tribune* dated 23rd October, 2003, published from Chandigarh reported:

> "The political intent in the brazen misuse of POTA was glaring when Raja Bhaiyya was arrested in Uttar Pradesh by Ms. Mayawati and then released by Mr. Mulayam Singh Yadav soon after he took over as Chief Minister. The Jharkhand government has rounded up over 700 people under POTA, some of whom are school-girls, whose parents are too poor to bail them out. In Gujarat, Mr. Narendra Modi has invoked POTA against 123 Muslims for the Godhra carnage. Amazingly, POTA, once regarded as a panacea for the scourge of terrorism, has become a remedy worse than the disease."

In Gujarat, POTA was invoked only against Muslims by Shri Narendra Modi. That is the position.

Now, what happened in Tamil Nadu? In Tamil Nadu, it was even threatened that the Union Minister, Shri Kannappa will be booked under POTA. That was the newspaper report. Shri Kannappa was not prepared to go to Tamil Nadu as he was afraid that he would be arrested under this statute.

The Central leadership of NDA Government, namely, BJP is maintaining a very strange relationship in Tamil Nadu. They will be having day-long bed-lock relationship with the DMK and in the night, they will stay with AIADMK. That is the position....(*Interruptions*)

DR. V. SAROJA (RASIPURAM): Sir, this should be expunged.â€¦ (*Interruptions*)

SHRI MANI SHANKAR AIYAR (MAYILADUTURAI): Sir, there is nothing wrong...(*Interruptions*)

SHRI VARKALA RADHAKRISHNAN : I must tell that the law is equal for all. What actually transpired in Chennai yesterday? My friend, Shri Vaiko was taken into custody and he is under central prison for many months now. He could not attend this House. It is a privilege of a Member to attend this House when this legislation is being discussed. He applied for permission to the Special Court. The Special Court rejected his petition. Then the matter went through a Special Leave Petition before the High Court. The single judge bench after hearing him for two-three days, gave the orders to the Tamil Nadu State Government to permit him to attend the Session. This order was issued at 3.00 p.m. Now we all know that some procedure is required if this order is to be challenged. But the Madras High Court did not go into all these procedural matters. Will a common man get a decision like this because the decision was taken at 11.30 p.m. It is unheard of in the judicial history. It is unheard of because of this Ordinance. Such a situation has come when even the Member is denied his privilege to attend this House. At 3.00 p.m. an order was passed by the single judge bench and at 11.30 p.m. it was set aside by the two-judge bench. It is very wonderful and fantastic! I would like to know from the hon. Minister as to why should we have this statute retained.

Now, almost all the papers like *The Hindu* and other traditional papers who are fighting for human cause have said that this law should be thrown out. In their editorials, almost all leading papers of our land have asked the Central Government to throw out this Ordinance. This can do nothing but cause havoc to democracy. It has created a situation in which no man is in a position to sleep freely.

The fundamentals of the Indian Evidence Act is also abrogated in the sense that if a confession is made before a police officer, it is inadmissible in evidence as per the provisions of the Indian Evidence Act. But as per this Act, a confession which is made before a police officer is admissible in evidence. That is against the provisions of the Constitution. A man cannot be compelled to give evidence against him. Here is a case wherein a citizen is compelled to give evidence against him. That also is being done by the statute. So, there is no justification for the continuation of this statute in our land.

I have great regard for our hon. Deputy Prime Minister. Let him understand that he should do nothing as injustice. I request him to withdraw the Ordinance without delay and do justice to parliamentary democracy in India.

**श्री रामजी लाल सुमन (फिरोजाबाद) :** माननीय सभापति महोदय, सदन आतंकवाद निवारण संशोधन विधेयक 2003 पर चर्चा कर रहा है। अपने प्रारम्भिक भााण में देश के उपप्रधान मंत्री और गृह मंत्री जी ने यह संदेश देने की कोशिश की कि पोटा आतंकवाद से लड़ने के लिए बनाया गया है। जब यह तथ्य प्रकाश में आया कि इसका दुरुपयोग हो रहा है तो भारत सरकार ने पोटा समीक्षा समिति बना दी। जहां तक आतंकवाद का सवाल है, मैं समझता हूं कि अगर यह सरकार यह संदेश देती है कि वह सरकारी आतंकवाद से लड़ रही है तो यह किसी भी कीमत पर न्यायसंगत नहीं है। आतंकवाद से न सिर्फ सरकार लड़ रही है, पूरा देश लड़ रहा है। इस सदन में जो सम्मानित पार्टियां उपस्थित हैं, वे सभी आतंकवाद के सवाल पर सरकार के साथ हैं। यह संदेश देना कि केवल हम आतंकवाद के खिलाफ लड़ाई लड़ रहे हैं, किसी भी कीमत पर न्यायसंगत नहीं है। मैं बड़ी विनम्रता के साथ कहना चाहूंगा कि पोटा जिस मकसद से बनाया गया था, कि जो आतंकवादी गतिविधियों में लिप्त हैं, उनके खिलाफ इसका प्रयोग होगा, आतंकवाद के खिलाफ इसका इस्तेमाल होगा, मैं नहीं जानता कि सरकार के पास इसके कौन से आंकड़े हैं लेकिन मुझे लगता है कि पोटा बनाने के समय हमारी जो मंशा थी, उसका जितना मनोवैज्ञानिक असर आतंकवादियों पर होना चाहिए था, उतना नहीं हुआ। आतंकवाद के सवाल पर हम उनके साथ हैं।

जहां तक पोटा समीक्षा समिति का सवाल है, इसी सदन में जब 26 मार्च 2002 को संसद का संयुक्त अधिवेशन हुआ, उस समय गृह मंत्री जी ने आश्वस्त किया था कि किसी भी कीमत पर पोटा का दुरुपयोग नहीं होगा। हम लोगों ने आशंका व्यक्त की थी कि पोटा संविधान की भावनाओं के प्रतिकूल है, लोकतंत्र की भावनाओं के प्रतिकूल है, इससे आम आदमी के लोकतांत्रिक अधिकारों का हनन होगा, उस समय बहुत मजबूती के साथ अपना पक्ष रखते हुए आडवाणी जी ने कहा था कि टाडा में जो खामियां थी और इससे संबंधित जो पुराने कानून थे, वे सब चीजें देख ली गई हैं और हम पोटा का किसी भी कीमत पर दुरुपयोग नहीं होने देंगे। ईमानदारी की बात यह है कि यह जो केन्द्रीय समीक्षा समिति बनी है वह कोई केन्द्रीय समीक्षा समिति नहीं है। एमडीएमके और डीएमके के लोगों ने जब यह धौंस देना शुरु किया,

पोटा का दुरुपयोग हो रहा है। सरकार की वाइको और दूसरे के सवाल पर मजबूरी हो गई और सरकार को केन्द्रीय समीक्षा समिति बनानी पड़ी। सरकार में आतंकवाद से निपटने के लिए कितनी दिलचस्पी है, सरकार कितनी कठोर है, मैं नहीं जानता लेकिन मैं इतना जरूर जानता हूं कि सरकार की सबसे बड़ा प्राथमिकता यह है कि दांव-पेंच से सरकार चलती रहे, यह सरकार की नीयत है, इसके अलावा और कुछ नहीं।

सभापति महोदय, यह बार-बार कहा गया कि सरकार पोटा का किसी कीमत पर दुरुपयोग नहीं होने देगी। अभी सी.पी.एम. के माननीय सदस्य कह रहे थे और यह बात सही भी है। हम लोग आपातकाल के दौरान जेल में बंद रहे। इस देश में जब डीआईआर और मीसा लगा, उसके हम खुद भुगतभोगी हैं। हम जानते हैं कि उसका कितना दुरुपयोग हुआ लेकिन फिर भी हम उन सब से सबक लेने के लिये तैयार नहीं हैं। श्री दासमुंशी ने पोटा के बारे में कहा लेकिन वे भी टॉडॉ से सबक लेने को तैयार नहीं हैं। हज़ारों बेगुनाह लोग जेलों में सड़ते रहे और 'नहीं' के बराबर लोगों के खिलाफ आरोप सिद्ध हुये। टॉडॉ से हम लोग कोई सबक लेने के लिये तैयार नहीं हैं। आज स्थिति यह है कि पूरे देश का ऐसा वातावरण बना हुआ है कि पोटा का उपयोग आतंकवाद के खिलाफ नहीं लिया गया बल्कि राजनैतिक प्रतिशोध की भावना के खिलाफ हुआ है, दूसरा कोई कारण नहीं है।

सभापति महोदय, श्री आडवाणी ने विलासपुर में 23.02.03 को स्वीकार किया इसका दुरुपयोग हो रहा है। श्री हरिन पाठक ने इसी सदन में बताया था कि 682 लोग टॉडा के तहत पकड़े गये हैं, अधिकांश के दुरुपयोग किये जाने की इत्तला मिल रही है, लगातार इसके दुरुपयोग होने की सूचना मिल रही है। मैंने पहले जैसा निवेदन किया कि जब पोटा पर कानून बनाने का मामला इस सदन में आया, सब राजनैतिक दलों ने आशंका व्यक्त की थी कि पुराने अनुभव को देखते हुये पोटा का दुरुपयोग होगा। श्री नरीमन, अधिवक्ता ने कहा था कि ऐसे कानून की आवश्यकता इसलिये नहीं कि एन.एस.ए,1980. हमारे पास है। अगर सरकार किसी स्थिति से निपटना चाहती है तो मैं समझता हूं कि सरकार के पास इतनी शक्ति और सामर्थ्य है, कानून है कि उससे निपटा जा सकता है।

इस चर्चा के दौरान विभिन्न राज्यों का जिक्र किया गया। मैं आरोप लगाना चाहता हूं कि पोटा का सर्वाधिक उपयोग उन्ही राज्यों में हुआ है जो भाजपा शासित राज्य हैं और भाजपा सहयोगी दलों की सरकार है। क्या मैं जान सकता हूं कि झारखंड, जहां भाजपा का शासन है, एक 12 साल के लड़के गया सिंह और 81 साल के वृद्ध राजनाथ महतो को पोटा के तहत बंद कर दिया गया। 234 लोग जेल में डाले गये और रिव्यु कमेटी के कहने पर 104 लोगों को रिहा कर दिया गया लेकिन उन बेगुनाह लोगों को जेल जाना पड़ा। उनके परिवार परेशान हुये, इसकी जवाबदेही किस पर है? यह कहना बहुत ही आसान है कि हम लोगों ने उन्हें पकड़ लिया। यह सुनिश्चित करने के बाद कि उनकी भागीदारी नहीं है, उन्हें छोड़ दिया गया। आप स्वयं अंदाजा लगा सकते हैं कि ये गरीब लोग किस कदर परेशान होते हैं।

सभापति महोदय, तमिलनाडु में सुश्री जयललिता ने श्री वाइको की गिरफ्तारी की। उसमें सब से महत्वपूर्ण बात यह है कि श्री वाइको के अलावा केन्द्रीय मंत्री श्री कणप्पन के लिये सुश्री जयललिता ने कहा कि उसे भी गिरफ्तार करेगी। उसने न केवल कहा बल्कि भारत के प्रधान मंत्री को पत्र लिखा कि वह उसे गिरफ्तार करने वाली हैं। सभापति जी, देश में यह क्या हो रहा है? श्री वाइको उसी सीट से बड़े जोरदार शब्दों में पोटा के समर्थन में उस दिन बोल रहे थे। आज 17 महीने जेल में रहने के बाद फरमाते हैं कि जेल में आत्म-चिन्तन कर समझे कि पोटा का समर्थन करके मैंने गलती की थी। क्या 17 महीने जेल में रहने के बाद यह समझ आयी?

सभापति महोदय, यहां उत्तर प्रदेश का जिक्र किया गया। राजा भैया और उनके पिता को जेल में डाला गया। सब से बड़ी बात यह है कि गुजरात में 239 व्यक्ति पोटा के तहत गिरफ्तार किये गये। वे सब के सब अकलियत और मुसलमान लोग हैं. एक सिक्ख भी है। क्या मैं जान सकता हूं कि जब पूर्व सांसद श्री जाफरी और मुस्लिम समुदाय के लोग मर रहे थे, बजरंग दल, वीएचपी और आर.एस.एस. द्वारा मुसलमानों का कत्लेआम हो रहा था, क्या उनमें से पोटा के लायक एक केस भी फिट नहीं था? मैं समझता हूं कि यह देश को तोड़ने वाली भावना है। हिंदुस्तान की आजादी की लड़ाई में हिन्दु, मुस्लिम, सिख, ईसाई सब लोगों ने अपना योगदान दिया है। लेकिन जब किसी कानून का दुरुपयोग इस हद तक होगा तो मुझे माफ करना इस देश के टूटने की संभावना पैदा हो जायेगा। मैं नहीं समझता कि इससे ज्यादा राष्ट्रद्रोही और भ्रट कोई दूसरा कार्य हो सकता है। हजारों लोग गुजरात में पकड़ कर लाये जाते हैं और उनसे कहा जाता है कि पूछताछ करेंगे, लेकिन उन्हें महीनों बैठाये रखा जाता है और कहा जाता है कि अगर न्यायालय में गये तो तुम्हें पोटा के अंदर बंद कर दिया जायेगा। इस पोटा का क्या हो रहा है। इसलिए मैं बड़ी विनम्रता के साथ कहना चाहता हूं कि संशोधन वगैरह की कोई जरूरत नहीं है, यह जंगली कानून है, इसे रद्द होना चाहिए। सरकार को इसे वापस लेना चाहिए, यही इसका एकमात्र हल है। सरकार का इरादा पोटा से निपटने का नहीं है, सरकार चलाने का है। उसके लिए मैं एक शेर पढ़कर अपनी बात खत्म करता हूं, जो बिल्कुल ठीक है -

"मैं खाली जाम रखकर इसलिए आंसू बहाता हूं,

तुम्हारी बात रह जाए, मेरा पैमाना भर जाए।"

**श्री मोहन रावले (मुम्बई दक्षिण मध्य) :** सभापति महोदय, सरकार की तरफ से पोटा के तहत रिव्यू कमेटी के बारे में जो अमैन्डमैन्ट बिल लाया गया है, मैं शिवसेना की तरफ से उसका समर्थन करता हूं। अभी प्रियरंजन दासमुंशी जी यहां नहीं है। मैं कांग्रेस के लोगों से विनती करना चाहता हूं कि सुरक्षा के साथ आपको कभी समझौता नहीं करना चाहिए। जब यहां पोटा की चर्चा चल रही थी, उसके पहले आपकी सरकार ने जहां दोनों कांग्रेस की मिली-जुली सरकारें हैं, वहां एन.सी.पी. और इंदिरा कांग्रेस की सरकार है, आपने अफरोज को पोटा लगाया। लेकिन जब चर्चा चल रही थी तो मुसलमानों के वोटों पर आपकी नजर थी, यहां उस समय आपको बताना चाहिए था कि हम पोटा का विरोध करते हैं। जहां चर्चा चल रही थी तो जिसे देशद्रोही करके पकड़कर लाये थे, उसे उन्होंने रिहा कर दिया। आपने उसे गिरफ्तार क्यों किया था, क्या सरकार में इतनी समझ नहीं थी। आज जो पोटा लाया गया है, आप देख रहे हैं, जब अजहर मसूद को छोड़ा गया, जो हमारे प्लेन को हाईजैक करके कंधार ले गया था, उसने कहा था -

"Our mission is not only Srinagar, but we have also to capture New Delhi."

जब संसद पर 13 दिसम्बर को अटैक हुआ था, पांडियन साहब यहां नहीं हैं, उन्होंने कहा था

"If POTA would have been brought forward, it would have been passed at that time."

यानी उसी वक्त यह पास हो जाता जब 13 दिसम्बर को हमारे ऊपर हमला हुआ था।

**श्री बसुदेव आचार्य** : आर्ड़िनेन्स जारी हो गया था, पोटा था, फिर भी घटना घटी।

**श्री मोहन रावले** : उन्होंने कहा है, पहले आप उसकी तारीख पता कर लीजिए। आप कंट्रोल तो कर सकते हैं, घटना घट सकती है।â€¦ (व्यवधान)

**सभापति महोदय :** रावले जी, आप इधर ध्यान दें, उधर नहीं।

**श्री मोहन रावले** : वैसे को आई.पी.सी. कोड है, फिर भी चोरी, डकैती और मर्डर होते हैं तो क्या इसका मतलब यह है कि आई.पी.सी. कोड को खत्म कर देना चाहिए। हम लोग संविधान में जो अमैन्डमैन्ट करते हैं, परिस्थितियों के तहत करते हैं, अभी परिस्थिति है। आज हम सत्ता में हैं, कल को आप भी सत्ता में आ सकते हैं और सत्ता में नहीं भी आ सकते हैं। लेकिन ध्यान रखिये चाहे कोई भी सत्ता में रहे, इसका सवाल नहीं है, देश की आंतरिक सुरक्षा के साथ आपको कभी समझौता नहीं करना चाहिए।

मेरे पास आंकड़े हैं। प्रधान मंत्री जी द्वारा पाकिस्तान की विजिट करने के बाद गृह मंत्री जी ने आंकड़े दिये हैं कि अभी भी टैरेरिज्म में कोई कमी नहीं हुई है, टैरेरिज्म अभी भी चालू है। जब बिल क्लिंटन भारत आये थे तो आतंकवादी घटना हुई थी। जब राट्रपति श्री अब्दुल कलाम जी जम्मू-कश्मीर गये थे तो वहां बम विस्फोट हुआ, जिसके कारण वहां 12 जवान मारे गये। मुम्बई शहर में मुलुंड, विले पारले, घाटकोपर और मुम्बई सैन्ट्रल में टैरेरिस्ट अटैक हुए। केन्द्र सरकार की रिपोर्ट है, पहले कांग्रेस की सरकार थी, आप बार-बार कहते थे कि इसके पीछे आई.एस.आई. का हाथ है। आई.एस.आई. हमारे अंदर के लोगों को इस्तेमाल करके कार्रवाई करती है। मंदिर में बम विस्फोट होता है, बस में विस्फोट होता है, बाज़ार में विस्फोट होता है, मस्जिद में भी विस्फोट होता है। इन बम विस्फोटों के कारण 1988 से अब तक 10,500 से ज्यादा सिविलियन्स मारे गए हैं, जवानों की संख्या तो अलग है। इसलिए आप सोचें कि पोटा में संशोधन क्यों ला रहे हैं। â€¦ (व्यवधान)

मैं एक दो मिनट और लूंगा। आप तो बोलने ही नहीं देते। जब आप बोलते हैं तो आपको कोई रोक भी नहीं सकता है। कल जब आचार्य जी आसन पर बैठे थे तो कहा कि आप बोलेंगे तो 20-25 मिनट आपको लगेंगे। मैं एक-दो मिनट में अपनी बात खत्म करूँगा।

Pakistan has become the motherland of terrorism. अमेरिका की नीति कैसी है पता नहीं। 11 सितम्बर को जब वहां हमला हुआ तो उनको भी पता है कि उसमें आई.एस.आई. शामिल है, लेकिन अमेरिका ने पाकिस्तान के खिलाफे कोई कार्रवाई नहीं की। हमारी सुरक्षा तो हमें ही करनी है। 11 सितम्बर के हमले के बाद अमेरिका में कानून आया, ब्रिटेन में कानून आया, फ्रांस में कानून आया। दुनिया के सभी देशों में ऐसा कानून लाया गया। कोई महाशक्ति हमारे साथ है या नहीं, वह अपने बारे में सोचेगी, हमें अपने बारे में सोचना चाहिए।

मैं उप प्रधान मंत्री जी से पूछना चाहता हूँ कि 12 मार्च 1993 को मुम्बई में जो बम विस्फोट हुए, उसके दोाी आतंकवादियों की सूची आपने पाकिस्तान को दी होती तो अच्छा था। अभी भी आप जनरल मुशर्रफ के साथ बात करना चाहते हैं। पता नहीं क्यों बात करना चाहते हैं? जब मुशर्रफ यहां आए तो कश्मीर में विस्फोट हुआ। मुशर्रफ आए तो उनको विस्फोट करके सलामी दी। आप उन 20 आतंकवादियों को हिन्दुस्तान में क्यों नहीं ला रहे हैं? आपने इनीशियेटिव लिया उसके लिए मैं आपको बधाई देना चाहता हूँ लेकिन उसके लिए आपको विश्व के देशों पर दबाव डालना चाहिए। पाकिस्तान के मंत्री कहते हैं कि वह पाकिस्तान में रहता है और मुशर्रफ कहते है कि वह पाकिस्तान में नहीं रहता है - ऐसा कैसे हो सकता है? उनको लाइए तो आपको पता लगेगा। आज अमेरिका ने उसे इंटरनेशनल टैररिस्ट घोषित किया है तो जनरल मुशर्रफ के ऊपर आप दबाव डालिये। आप उनसे वार्ता करने जा रहे हैं तो उनको बोलिये कि पहले वे टैररिस्ट हमें दे दो, फिर आप जो बात करना चाहते हैं, वह करेंगे। हमारे यहां टैररिज्म अभी खत्म नहीं हुआ है। ये आपके ही आंकड़े हैं। आपने कहा है कि आतंकवाद अभी खत्म नहीं हुआ है जो कुछ आई.एस.आई. द्वारा हिन्दुस्तान में किया जाता है, उसमें कई लोग मारे जाते हैं। हर दिन कहीं न कहीं खून-खराबा होता है और लोग मारे जाते हैं।

मैं सदन से विनती करता हूँ कि हमारे आपस में मतभेद हो सकते हैं लेकिन इस कानून में अगर किसी के साथ गलत हुआ तो उसके लिए सरकार रिव्यू कमेटी बैठा सकती है और उसको रिहा किया जा सकता है। आप 'मोका' लाए थे जिसमें प्रतिशत से ज्यादा कनविक्शन्स हुए हैं जो महाराट्र में लागू है। क्या कोई देशद्रोही होगा तो आप उसे छोड़ देंगे?

**सभापति महोदय** : आप समाप्त कीजिए।

**श्री मोहन रावले** : सभापति जी, मैं समाप्त करता हूँ। मैं शिवसेना पार्टी की तरफ से यह जो बिल लाया गया है, उसका समर्थन करते हुए अपनी बात समाप्त करता हूँ।

**श्री राशिद अलवी (अमरोहा) :** बहुत-बहुत धन्यवाद सर।

सर, पोटा के कानून में, जिस अमेंडमेंट की बात पर यह हाउस बहस कर रहा है, जब पोटा लाया गया था, तो इस दावे के साथ लाया गया था कि इस मुल्क में टैररिज्म के खिलाफ लड़ाई के लिए यह कानून लाया गया है। सबसे पहले मैं सरकार से पूछना चाहता हूं कि क्या कानून लाने के बाद इस मुल्क के अंदर टैररिज्म के अंदर कोई कमी आई है ? पोटा कानून टैररिज्म के खिलाफ किस हद तक लड़ पाया है, किस हद तक कामयाब हो पाया है, क्या टैररिज्म के अंदर कमी हुई है ?

सर, टैररिज्म की परिभाषा सरकार क्या समझती है ? कौन टैररिस्ट है, कौन टैररिस्ट नहीं है, इसका फैसला कौन करेगा ? सेंट्रल रिव्यू कमेटी आपने बनाई है। मैं अदब के साथ पूछना चाहता हूं कि इसकी क्या गारंटी है कि वह भी फैसले सही करेगी ? किसी ऐसे मुल्क के अंदर जिसमें 150 साल तक आजादी की लड़ाई लड़ी गई हो, जिस मुल्क के अंदर इतनी मुश्किल से आजादी हासिल की गइ हों, उसके अंदर पोटा जैसा कानून बनाना आजादी की लड़ाई लड़ने वालों के साथ धोखा करने के बराबर है।

सर, पोटा के अंदर अब तक, सरकार के डेटा के अनुसार करीब-करीब 800 लोग गिरफ्तार किए गए हैं। क्या वे 800 के 800 टैररिस्ट्स हैं, मैं आपसे पूछना चाहता हूं ? यदि आप ईमानदारी के साथ पोटा के कानून को लागू करना चाहते थे, तो तोगड़िया ने हिन्दुस्तान के अंदर जो बयान दिया कि किसी आदमी को जो सैकुलरिज्म की बात करता है, पार्लियामेंट के अंदर नहीं चुनकर नहीं भेजना चाहिए, यह खबर हिन्दुस्तान के हर अखबार में छपी है, क्या उनके खिलाफ पोटा नहीं लगा सकते थे ? यह जवान जो बोलने का काम कर रहे हैं क्या यह कांस्टीट्यूशन के माफिक है, क्या नफरत की यह आंधी जो मुल्क के अंदर फैला रहे हैं, क्या उन्हें पोटा के अंदर गिरफ्तार नहीं किया जा सकता था ?

सर, गुजरात के अंदर जो कुछ हुआ है, अभी यहां पर डेटा दिए गए कि किस कम्युनिटी के लोगों को, अकलीयत के लोगों को पोटा के अंदर बन्द कर दिया गया। मुझे आप माफ करेंगे उन्हें इसलिए गिरफ्तार नहीं किया गया या आप ईमानदारी से नहीं चाहते थे कि पोटा कानून उनके खिलाफ लगना चाहिए बल्कि आपकी नीयत थी कि यदि मुस्लिम कम्युनिटी के लोगों को पोटा के अंदर बन्द किया जाता है, तो तमाम गुजरात का हिन्दू इकट्ठा हो जाएगा और आप सत्ता में आ जाएंगे, यह मकसद था, इस कानून को वहां लगाने का। जिस मुल्क के अंदर सिर्फ सत्ता हासिल करने के लिए कानून का इस्तेमाल किया जाता हो, जिस मुल्क के अंदर एक कम्युनिटी के खिलाफ पोटा लगाया जाता हो, सिर्फ इक्तदार हासिल करने के लिए कानून का इस्तेमाल किया जाता हो, वहां ऐसे कानून को रखने की कोई जरूरत नहीं है। इनकी नीयत नहीं है कि इस मुल्क के अंदर टैररिज्म खत्म किया जाए।

**17.43 hrs.** (Mr. Speaker in the Chair)

सर, इंटर नैशनल सिक्योरिटी एडवाइजर टू दि प्राइम मिनिस्टर, श्री बृजेश मिश्र ने अमरीकी मिनिस्टर से मिलने के बाद, अमरीका के अंदर बयान दिया कि हिन्दुस्तान के अंदर बड़ा भारी टैररिज्म है और उसे अमरीका, इजरायल और हिन्दुस्तान मिलकर ही खत्म कर सकते हैं। सर, इससे अंदाजा होता है कि सरकार की नीयत टैररिज्म से लड़ने की किस हद तक है। जो मुल्क दुनिया के अंदर टैररिज्म को फरोग दे रहे हैं, वे मुल्क जो टैररिज्म को दुनिया में बढ़ावा दे रहे हैं, उन्हीं के स्वर में स्वर मिलाकर भारत के प्रतिनिधि बोल रहे हैं। यासर अराफात को उन्हीं के घर के अंदर इजरायल ने बन्द कर दिया और इजरायल के साथ हिन्दुस्तान की सरकार यह कहती है कि हम इजरायल के साथ मिलकर हिन्दुस्तान से टैररिज्म को खत्म करेंगे, इससे शर्मनाक बात कोई और दूसरी नहीं हो सकती है।

सर, मैं सरकार से मुतालवा करता हूं कि ऐसा कानून जो फ्रीडम फायटर के जजबात की मुनाफी है, ऐसा कानून जो एक आम आदमी के ऊपर तलवार की तरह लटकता रहे, उस कानून को वापस लेना चाहिए, सिर्फ अमेंडमेंट का सवाल नहीं है। इस पोटा के कानून को हिन्दुस्तान की आजादी का अहतराम करते हुए, हिन्दुस्तान के उन लोगों जिन्होंने 150 साल तक आजादी की लड़ाई लड़ी, उनकी इज्जत करते हुए इस कानून को वापस करना चाहिए। बदकिस्मती इस मुल्क की यह है कि जो लोग अंग्रेजों के जमाने में उनसे लड़ रहे थे, वे इसको सपोर्ट कर रहे थे, आज उन्हीं लोगों के खिलाफ जिन्होंने इस देश को आजादी दिलाई, उनके खिलाफ पोटा लगाने की बात ये कर रहे हैं। जो लोग उस वक्त हिन्दुस्तान की आजादी की लड़ाई लड़ रहे थे, आज उन्हीं के खिलाफ इसका इस्तेमाल किया जा रहा है। इस कानून से देश में देशद्रोही लोग पैदा होंगे, इस कानून से हिन्दुस्तान में टैररिज्म को रोका नहीं जा सकेगा। जिन लोगों को पोटा के अंदर गिरफ्तार किया गया, हद यह है कि पार्लियामेंट में जिन लोगों ने हमला किया था, उनमें से बहुत से लोगों को, जिन्हें पोटा में बंद किया था, उन्हें अदालत ने छोड़ दिया। यह सारा हिन्दुस्तान जानता है कि टाडा के अंदर दो प्रतिशत से कम लोगों को सजा हुई है, 98 फीसदी लोग टाडा के अंदर बरी हुए हैं, जब कि एक-एक स्टेट के अंदर, गुजरात के अंदर, आडवाणी साहब मुझ से ज्यादा बेहतर जानते हैं कि 37 हजार से ज्यादा लोग अकेले गुजरात में टाडा के अंदर बंद हुए। काश्मीर में 40-50 हजार लोग टाडा के अंदर बंद हुए। हिन्दुस्तान के अंदर लाखों की तादाद में लोग बंद थे और उनमें से दो प्रतिशत से भी कम लोगों को सजा हुई।

अध्यक्ष महोदय, मैं सिर्फ एक बात कह कर अपनी बात समाप्त करूंगा, लम्बी बात नहीं कर रहा हूं। टाडा के अंदर जो लोग बंद थे या पोटा के अंदर बंद हैं और जिन्हें अदालतों के अंदर छोड़ दिया जाएगा, जो दस-दस, 15-15, 20-20 साल जेल के अंदर रहे हैं। एक लम्हा आंखें बंद करके तसव्वुर कीजिए कि उनके पीछे उनके खानदान का क्या हश्र होगा, उन लाखों खानदनों का क्या हश्र होगा। उनमें बिलाशुबा बड़ी तादाद अकलियत के लोगों की है। उनके खानदान तबाह हो गए, उनकी आने वाली नस्लें तबाह हो गईं। क्या पोटा कानून का आप यही इस्तेमाल करना चाहते हैं? मैं पूरी शिद्दत से न सिर्फ इसकी मुखालफ़त करता हूं, बल्कि बहुजन समाज पार्टी की तरफ से मुतालबा करता हूं कि इस कानून को वापस लेना चाहिए। आपका बहुत-बहुत शुक्रिया।

SHRI K. MALAISAMY (RAMANATHAPURAM): Mr. Speaker, Sir, this is the Bill about which a lot of noise has been raised and a lot of sensation has been created. Probably, the persons involved are found to be accused under POTA and the persons involved happen to be VVIPs. That is the reason why this kind of noise and sensation have been created not only here but also outside.

Sir, unlike the other Bills, this has assumed this kind of undue publicity also. As far as AIADMK Party is concerned, we have been very clear in our case and we have been taking a correct stand based on sufficient reasons and justifications for our stand.

When POTA was brought here, we wholeheartedly supported it because we knew the interest of the nation and we knew the internal security of the State and the unity of the country. That is why, we wholeheartedly supported it even without asking for it by the ruling Party.

Now, we are constrained to oppose this amendment, particularly the creation of the Review Committee with super

powers, tooth and nail because our reasons are manifold. The simple reason is that it is trying to undermine the effect of the rule of law. That is why, we are opposing it.

Sir, before I could substantiate why this kind of amendment should be totally thrown out, as bad in law and in spirit, I would like to request the House to be a little bit objective rather than being carried away by individual interests and other compulsions and considerations.

Sir, the hon. House is very well aware that when there is a conflict between public interest and private interest, public interest should override the private interest. The greatest happiness of the greatest number should be ensured. That is the way we have been all along observing.

Before I could go into the entire problem, the entire House knew under what circumstances POTA was brought in here. Sir, you know that there was an unprecedented upsurge in the terrorist activities followed by organised crimes, intensification of cross border terrorism and insurgency in the States which have made this Government to bring this kind of legislation. ...(*Interruptions*)

DR. C. KRISHNAN (POLLACHI): Is the Tamil Nadu Government arresting only terrorists? Why was Shri Vaiko arrested? Is he a terrorist? He is a genuine Member of Parliament.

MR. SPEAKER: When your turn comes, you can speak.

SHRI K. MALAISAMY : Please do not interfere.

DR. V. SAROJA : The hon. Member is not yielding. When your turn comes, you can speak.

SHRI K. MALAISAMY : For paucity of time and for various reasons, I do not like to amplify terrorism. It has become a macro level problem and it has become a global threat. That is why, after the incidents at Pentagon, at WTO and followed by the attack on our Parliament, the whole world has been stunned. In result, the POTA was very much requested. That is why, the POTA was brought. ...(*Interruptions*) Sir, you please control the Member.

I am yet to come to his point. I have enough points to talk about Shri Vaiko. I will come to that.

It is very much surprising to note how the NDA Government, which has been so particular to bring a legislation of this nature, has come out with an amendment of this nature which will totally undermine and water down the entire spirit and the effect of the main law.

MR. SPEAKER: Shri Malaisamy, I would request you to be brief as much as possible because there is a very little time with us.

SHRI K. MALAISAMY : Yes Sir, I am under the impression that they have yielded to the pressure of one of the allies of the NDA. Many of the speakers, who spoke here, said that POTA has been in misuse and abuse. In that process, they have mentioned the names of certain Chief Ministers, including the hon. Chief Minister of Tamil Nadu. Sir, I seek your indulgence for a couple of minutes.

How Tamil Nadu was placed with the greatest menace of LTTE when the great leader, Rajiv Gandhi was assassinated by the LTTE? After that, the general election was held. Madam Jayalalithaa took over as Chief Minister in the first spell between 1991 and 1996. She came with a vision. She came with a mission. She came with a commitment to control and contain this kind of LTTE menace and their outfits. She wanted to drive them out totally from Tamil Nadu. Her political will was there and she had the skill to execute that kind of will. That is why, within a period of six months, the LTTE was driven out. But, after 1996, unfortunately Madam Jayalalithaa lost power. Subsequently, the DMK Party came to power. There was a let up and the LTTE started again surfacing. They restored what all the activities they wanted. ...(*Interruptions*)

SHRI A. KRISHNASWAMY (SRIPERUMBUDUR): Sir, it is irrelevant. ...(*Interruptions*)

SHRI K. MALAISAMY : I am not yielding. Let them have their own say when their turn comes. Again Madam Jayalalithaa came to power in 2001 She came with the very same commitment to control the LTTE. ...(*Interruptions*)

MR. SPEAKER: He has not made any allegation against your Party. He is explaining the position only. Shri Baalu is there to say. When your turn comes, you can always speak. Please sit down.

SHRI A. KRISHNASWAMY : It is irrelevant. When our Government was there, we controlled everything. ...(*Interruptions*)

SHRI K. MALAISAMY : Then the POTA came in handy. ...(*Interruptions*)

MR. SPEAKER: You can always make your point when your turn comes.

SHRI K. MALAISAMY : Sir, I may be permitted.

MR. SPEAKER: Shri Malaisamy, you please come to the point. I have already explained to you.

SHRI K. MALAISAMY : I am coming to the point. In continuation of that process, she came with the very same commitment to control this kind of menace of the LTTE. At her instance only, the LTTE along with the TNRT and the TNLA, the other supporting outfits, were also banned by the Government of India. In the process of executing POTA, a few people came to be noticed against whom *prima facie* cases were there. It is most unfortunate that Shri Vaiko also happens to be under that net.

Many hon. Members have said that it has been done vindictively. It has been said that it was done to settle scores against political opponents and to wreak vengeance. For your information, Shri Vaiko is not our enemy. He is not our potential rival at all in terms or party or in terms of political leadership. Why should we be vindictive to him? There are a few number of arch-enemies against whom we could have been vindictive. We did not do anything with them under POTA .... (*Interruptions*)

Shri Vaiko is a fiery speaker and he can make excellent speeches. I concede that but what is the type of speeches that he made? I am just giving here one paragraph of a speech of Shri Vaiko. In his address, he spoke at length and justified the LTTE activities as follows. ...(*Interruptions*)

DR. C. KRISHNAN : Sir, it is irrelevant here. The circumstances were different. ...(*Interruptions*)

SHRI K. MALAISAMY : He says:

> "I was a supporter of the LTTE yesterday; I am a supporter of the LTTE today; I will be a supporter of the LTTE tomorrow. I said this in the Lok Sabha also. Suddenly, a BJP Member rose and stated that it was a well known fact that Shri Vaiko supports LTTE at all times and that he did not change his views."

This was an observation of an hon. Member from the BJP.

MR. SPEAKER: Shri Malaisamy, your time is over.

SHRI K. MALAISAMY : Sir, you must be considerate to me for the simple reason that many other hon. Members have been given unlimited time to speak. You must permit me because this is a very sensitive issue. I must be given a few more minutes.

MR. SPEAKER: Your time, as per the strength of your party, is only three minutes. I have already given you ten minutes.

...(*Interruptions*)

SHRI K. MALAISAMY : Sir, pro-LTTE literature, photographs of Shri Vaiko in the company of LTTE leaders, namely, Pirabhakaran and Mahtaiya and books written by Shri Vaiko encouraging the activities of LTTE and its leaders were seized during the searches conducted at his houses at Chennai and Kalingapatty, which clearly establish the offence of Shri Vaiko. The series of speeches delivered by Shri Vaiko at various places in Tamil Nadu within a short period establishes his support to the LTTE, a banned organisation. ...(*Interruptions*)

What I am trying to highlight here is that based on the speeches, based on his conduct and based on the incriminating circumstances and materials recovered, a clear-cut case is made out under the law. That is why a case was registered and he has been put under trial. The trial is going on in the special court. It has almost come to a conclusion. The trial is in the finishing stages. ...(*Interruptions*)

Nakkeeran Gopal is the other person who was accused and the other person against whom a case was registered. He went up to the Supreme Court for grant of bail. The Supreme Court, the highest court in the country, has observed that there is a *prima facie* case while refusing bail to Nakkeeran Gopal.

Many people are under the impression that the POTA was being misused and Madam Jayalalithaa was abusing it. Here, all the ingredients for offences under POTA are present. A clear-cut case is there and materials have been collected. We could be sympathetic to Shri Vaiko. That is a different matter. We are talking on law. The law should be equal to everyone. ...(*Interruptions*)

SHRI ADHI SANKAR (CUDDALORE): Sir, they are defending Ms. Jayalalithaa. ...(*Interruptions*)

SHRI K. MALAISAMY : Just because Shri Vaiko, Shri Kannappan and some important people are involved, do you mean to say that we can afford to be silent? ...(*Interruptions*)

Sir, I am addressing the Chair. You should protect me. I never come to waste time. When we are speaking on points and when we are speaking on the basis of materials gathered, they should just listen and then answer.

**18.00 hrs.**

On the other hand, they should not interrupt. ...(*Interruptions*)

MR. SPEAKER: Shri T.R. Baalu to speak now. Shri Baalu, you can start your speech.

...(*Interruptions*)

MR. SPEAKER: Shri K. Malaisamy, please sit down.

...(*Interruptions*)

SHRI K. MALAISAMY : Sir, I will finish in two minutes. ...(*Interruptions*)

MR. SPEAKER: Shri Malaisamy, I have already given you enough time. There is a constraint of time. We were to complete the debate by 5 o' clock. Now it is already 6 o' clock.

...(*Interruptions*)

SHRI K. MALAISAMY : After having seen the facts of the case, do you mean to say that the powers have been misused and abused? It is not true at all. ...(*Interruptions*) I am concluding. I will finish soon.

First of all, it has been stated that misuse and abuse is there. Even the hon. Minister of Home Affairs has said that misuse in any other law is also possible. When there are few cases of misuses here and there in the application, law in not defective. The fault of the Executive, while implementing the law, there is no fault in the law. Some fault may be there in execution. But does it mean that the law is defective? It is not at all so. If you say that every law is defective, you would come every time here with amendments like this. I would like to ask the hon. Minister of Home Affairs as to in how many cases such misuse or abuse occured and amendments were brought. Then why is amendment? ...(*Interruptions*) I have only two points. I will make only one sentence. ...(*Interruptions*) I am afraid that the purpose of amendment cannot be served. I mean, the very purpose of bringing an amendment to save Mr. Vaiko may not be possible as the matter in pending with judiciaryâ€¦....(*Interruptions*)

MR. SPEAKER: You have already said this point. You have already mentioned it.

...(*Interruptions*)

SHRI K. MALAISAMY : This law cannot help at all to any of these people. They must be very clear. In such a situation, how can they feel that these Review Committee ...(*Interruptions*) can help?

MR. SPEAKER: Shri Malaisamy, now you must complete; otherwise nothing will go on record hereafter. Please sit down.

...(*Interruptions*)

SHRI K. MALAISAMY : The doctrine of separation of powers will be offended by creating Review Committee. ...(*Interruptions*)

MR. SPEAKER: You are repeating the points. Please do not do that.

...(*Interruptions*)

SHRI K. MALAISAMY : Peace and security are the purview of the States...(*Interruptions*) Centre should not interfere by this amendment

MR. SPEAKER: Please sit down. I have given you much more time.

Now whatever Shri Malaisamy says will not go on record.

*(Interruptions)* *

* Not Recorded.

THE MINISTER OF ENVIRONMENT AND FORESTS (SHRI T.R. BAALU): Sir, the length and breadth of entire Tamil Nadu is just like an open jail. ...(*Interruptions*)

MR. SPEAKER: Only what Shri Baalu speaks will go on record.

...(*Interruptions*)

SHRI T.R. BAALU: More than three lakh people have been arrested, who have been picketing in front of the Central and State Government Offices to condemn the atrocious attitude of the Chief Minister of Tamil Nadu, in demanding Tamil as a classical language, in demanding Tamil as an official language and also to repeal POTA. ...(*Interruptions*)

MR. SPEAKER: I have given the ruling in the House a number of times that the Minister is also a Member.

...(*Interruptions*)

SHRI T.R. BAALU: When I say that DMK Party led by Dr. Kalaingar M. Karunanidhi ...(*Interruptions*)

SHRI PRIYA RANJAN DASMUNSI : Sir, I take the protection of article 74 of the Constitution. ...(*Interruptions*)

MR. SPEAKER: Shri Baalu, he is on a point of order.

...(*Interruptions*)

SHRI PRIYA RANJAN DASMUNSI : The Constitution is very clear in article 74. The Minister in whatever capacity, may be belonging to any party, is collectively answerable to the House, as per article 74 of the Constitution. It is a collective accountability. So, on whatever Shri Baalu says, I am not prejudicing his mind. What I am talking is that- is he speaking here as one of the Ministers of the Council of Ministers in his Ministerial capacity or has he already resigned and talking as a DMK Member? That is a most important part. ...(*Interruptions*)

SHRI T.R. BAALU: I will answer it. First of all, I would like to give a clarification to my friend who has asked me as to whether I am speaking here as a Minister or as a Member of Parliament. I am speaking as a Party Leader of DMK here in Parliament. ...(*Interruptions*)

SHRI PRIYA RANJAN DASMUNSI : So, he has resigned from the Council of Ministers. ...(*Interruptions*) No, this cannot be done. He is intervening in the debate from the Treasury Benches and he is on Oath as a Minister within the Council of Ministers. So, whatever he speaks here is an intervention of a Minister in the debate. ...(*Interruptions*)

MR. SPEAKER: No doubt, he is a Leader of the Party. Now, he is intervening and I have permitted to intervene.

...(*Interruptions*)

SHRI PRIYA RANJAN DASMUNSI : No, I am not saying it. He should speak. We want to hear him. I only wanted that you give your observation whether a Minister in the Treasury Benches while intervening in the debate speaks as a Minister or is he suppresses his ministerial responsibility or speaks as a Leader. Is it possible or not in Indian Parliament.

Is it possible in the Indian Parliament or not? That is what I want to know. ...(*Interruptions*)

SHRI A.C. JOS (TRICHUR): Sir, you give your ruling. â€¦ (*Interruptions*)

MR. SPEAKER : Shri Baalu, you have been permitted to intervene in the debate and you can do that. Shri Dasmunsi also knows it very well.

...(*Interruptions*)

SHRI T.R. BAALU : Sir, I have already clarified to my friend. ...(*Interruptions*)

MR. SPEAKER : You need not go into the argument. I have already said on it. You can make your point.

SHRI PRIYA RANJAN DASMUNSI : Sir, I only want to remind him of his ministerial responsibility.

MR. SPEAKER : Thank you for doing a good social work.

...(*Interruptions*)

MR. SPEAKER : You are doing a very good social work.

SHRI T.R. BAALU : Sir, as I was saying, yesterday there was a big picketing and more than three lakh people have been arrested. They were demanding various things from the State Government and the Central Government. ...(*Interruptions*)

DR. V. SAROJA : Sir, he is misleading the House. It is not correct. ...(*Interruptions*) Only one thousand people were arrested and released. ...(*Interruptions*)

SHRI T.R. BAALU : Sir, one of the demands made by them was â€¦...(*Interruptions*)

SHRI C. SREENIVASAN (DINDIGUL): Sir, how is it relevant for the discussion on POTA here? ...(*Interruptions*) What is it that he is saying? ...(*Interruptions*)

SHRI T.R. BAALU : When I said we demanded the repeal of POTA, it is with due concern which we felt was necessary to urge upon our friends here to see that anything that could be draconian, could be nipped in the bud itself by bringing the amendment. ...(*Interruptions*) Sir, I want to ask one question especially to hon. Member Shri Dasmunsi who is a Congress Member of this Parliament.

In your State, Maharashtra, my friend Shri Shinde is ruling. There the POTA Act is used. In Kashmir POTA is used. But in Assam they are not implementing it. In Karnataka they are not implementing it. In Kerala they are not implementing it. In Uttaranchal they refused to implement it. In Himachal Pradesh they are not implementing it. Is it not a double standard? He is conveniently speaking with my friend and he is not ready to answer the question.

Some of the States have implemented it and some of the States have not implemented it. My colleagues, especially the hon. Deputy Prime Minister and the hon. Minister of Law and Justice have consciously brought this particular legislation with their concern for the Indian nation in mind.

On 13th December, two years ago, there was an attack on this Parliament, the temple of democracy and the entire Indian nation was emotionally integrated. There is no second opinion at all. All were together, including my friends from the Congress or from the other side, when we wanted to have a law.

**18.08 hrs.** (Shri Basu Deb Acharia *in the Chair*)

We wanted a law to contain terrorism. Now, who are the terrorists? The law brought before this House was to contain terrorism. Here the problem arises to identify the terrorists. I want to know one thing. ...(*Interruptions*)

SHRI C. SREENIVASAN : Are you supporting it? ...(*Interruptions*)

SHRI T.R. BAALU : I want to know from the Chair about one veteran parliamentarian colleague of ours who represents the people. ...(*Interruptions*)

SHRI K. MALAISAMY : Sir, I am on a point of order. ...(*Interruptions*)

SHRI ADHI SANKAR : Under what rule? ...(*Interruptions*) Sir, the hon. Minister is not yielding. ...(*Interruptions*)

MR. CHAIRMAN : Shri Malaisamy, under what rule are you raising the point of order?

SHRI T.R. BAALU : Sir, there is no relevancy in his point of order. ...(*Interruptions*)

SHRI K. MALAISAMY : Sir, it is under the law. If directly or indirectly one gives his support, then it constitutes an offence. One need not necessarily be a terrorist. If he happens to support it, then he comes under the law. That is

the law. ...(*Interruptions*)

MR. CHAIRMAN : There is no point of order.

...(*Interruptions*)

SHRI ADHI SANKAR : Sir, under what rule is he speaking? ...(*Interruptions*)

SHRI A. KRISHNASWAMY : Sir, under what rule is the hon. Member saying it? The hon. Minister is not yielding. ...(*Interruptions*)

SHRI T.R. BAALU : Sir, I myself want to clarify it. â€¦ (*Interruptions*)

SHRI C. SREENIVASAN : Sir, on the point who is a terrorist and who is not, the courts will decide. You kindly help us. What is it that the hon. Minister is saying? ...(*Interruptions*)

SHRI T.R. BAALU: Sir, the DMK led by Dr. Kalaignar Karunanidhi has always been in the forefront to see that terrorism is contained and whatever laws are brought before this House for enactment, they are definitely addressed by the DMK Members. My friend has just now said as if nobody was interested in the LTTE affair. Do you know the history? ...(*Interruptions*)

MR. CHAIRMAN : Shri Baalu, you address the Chair. Do not ask them any question.

SHRI T.R. BAALU: Sir, I want to make this clear that all the parties in Tamil Nadu − Congress, CPI, CPI(M), AIADMK and DMK − were together. Cutting across party lines, we were supportive of LTTE once upon a time. Their leader was also a participant in the procession held during 1986 and 1990. Is it not a fact? But at the same time ...(*Interruptions*) I think, you were Home Secretary once upon a time. Why do you shout like this? It is not fair on your part. ...(*Interruptions*)

SHRI K. MALAISAMY : I am talking nothing but the facts. I am talking only relevant material.

SHRI T.R. BAALU: Whatever relevant material you have, keep it with you. ...(*Interruptions*)

MR. CHAIRMAN: Nothing should go on record except what Shri Baalu speaks. Shri Baalu, you continue and address the Chair.

*(Interruptions)* *

SHRI T.R. BAALU: Sir, we were always fighting the black laws whether it was POTA, TADA or MISA. MISA was also fought by us. I myself was imprisoned for more than one year under MISA during 1976 along with our late lamented leader Murasoli Maran, M.K. Stalin. ...(*Interruptions*) I think, there are a lot of drum-beaters. I do not know why. Your leader Madam Gandhi, who happened to come to Chennai, openly repented at Marina Beach and stated 'I had done a wrong thing. I have to correct it.' Is it not a fact? Is it not a history?

SHRI C. SREENIVASAN : Madam Indira Gandhi was assaulted by DMK people.

MR. CHAIRMAN: Please do not interrupt.

SHRI T.R. BAALU: That is history. We fought and the CPI (M) comrades fought emergency. Hon. Deputy Prime Minister, hon. Prime Minister and my so many friends, including my dear friend Shri Fernandes, were imprisoned for more than one and a half years. We always fought against the black laws. That is why, my leader, Dr. Kalaignar Karunanidhi had cautioned our Deputy Prime Minister, our Government that if you bring such a law, such a legislation, you should be very careful because you are making a legislation which would be administered not only by kings, it would also be handled by tyrants. What is happening now? Tyrants will make use of this law or misuse the law, if the laws or enactments made by my learned colleague, hon. Deputy Prime Minister, Shri L.K. Advani are put in the hands of some of the tyrants. ...(*Interruptions*) It has been misused.

An eminent parliamentarian, who was in close association with me for more than 26 years in politics, has been imprisoned for no fault actually. What is the fault he has made? Section 21(3) says 'if anybody speaks or deliberates in a meeting any such thing in such a way as promoting banned organisations â€¦' Anybody can misinterpret the law. If he is a king, a proper ruler, it will be interpreted properly. If he or she is a tyrant, it can be misused in any manner. That is why, he is suffering for more than 524 days. I want to know from you, Sir, what happened to the letter given and prayer made by 300 Members of Parliament to your goodself. â€¦ (*Interruptions*)

SHRI PRIYA RANJAN DASMUNSI : Why do you not address this question to the Deputy Prime Minister to know what happened?

SHRI T.R. BAALU: Is it not a sin? Is it not a crime committed on the democracy? Are we correct? Are we doing some justice to our conscience?

Sir, who is Nedumaran? My friends will be knowing as to who Nedumaran is. Nedumaran was a close associate of the late Shrimati Indira Gandhi. Nedumaran was brought up by *Karma Veerar* Kamraj. Kamraj was responsible for making three persons as the Prime Ministers of India. Is it not a fact that, that particular person is languishing in Vellore Jail? What for? Is it for making a speech for the promotion of Tamils and Tamil culture? ...(*Interruptions*)

SHRI C. SREENIVASAN : Nedumaran is associated with the LTTE. That is why, he is in the jail. The Minister is misleading the House. What can we do?

SHRI T.R. BAALU: Where is Nakkeeran Gopal now? Journalist Nakkeeran Gopal is an upright personality. What sin has he committed? What wrong has he committed? Is it not a fact that the Statement Governments of Tamil Nadu and Karnataka have requested Nakkeeran Gopal to meet the forest brigand Veerappan and to see that Dr. Raj Kumar, the matinee idol of Karnataka, is released without any problem? ...(*Interruptions*)

DR. V. SAROJA : Sir, he is misleading the House.

MR. CHAIRMAN : Dr. Saroja, please take your seat.

SHRI T.R. BAALU: He has gone there with the full concurrence of both the Governments. He was the official negotiator. Is it not a fact that both Governments have agreed and he has been sent as an official negotiator? He has brought back Dr. Raj Kumar safely. Otherwise, what would have happened? ...(*Interruptions*) You were the Home Secretary of Tamil Nadu. Would there not have been bloodbath on both sides? ...(*Interruptions*)

SHRI K. MALAISAMY : How much money changed hands?

SHRI T.R. BAALU: Shri Nedumaran negotiated with Veerappan and then Dr. Raj Kumar was released. What happened afterwards? A former Minister was killed. It has happened in the same forest. Nedumaran avoided the killing of Dr. Raj Kumar. For that purpose, what was the award or the reward given by the Government of Tamil Nadu? It was imprisonment. Is it a sin to go and bring back a person who is in distress? That is why, we have warned and cautioned our friends not once or twice but in many meetings and also through letters. In the *Murasoli*, which I am showing now, my Leader has written many times. He has also written letters to the hon. Prime Minister. Sir, I cannot say that they are reluctant to do that, but are very much worried about containment of terrorism. Who were the terrorists? The expression 'terrorist' has to be widely defined.

SHRI K. MALAISAMY : Yes, define it.

SHRI T.R. BAALU: I will define it. Vaiko is not a terrorist. ...(*Interruptions*)

DR. V. SAROJA : He is a supporter of the terrorists.

SHRI T.R. BAALU: He is a parliamentarian. He is one of the Members in this temple of democracy. Who is Nedumaran? He is a Tamil nationalist. He belongs to Tamil nationalism. Who is Nakkeeran Gopal? He relates to the Fourth Estate. Is it not a fact that he is part and parcel of the governance? Are you not ashamed to see that a member of the Fourth Estate has been imprisoned for so many months? Are you not ashamed?

SHRI T.M. SELVAGANPATHI(SALEM) : Sir, this is too much. This is not correct on the part of the hon. Minister to say like that. ...(*Interruptions*)

SHRI T.R. BAALU: Initially, there was some problem? What was that problem? The Law Minister is a very close friend of mine. He has submitted some affidavit before the Supreme Court. When there was a little bit of confusion, the DMK had to intervene and then it was corrected. It is not a fault. ...(*Interruptions*) I think, you are a gentleman. What has happened next? ...(*Interruptions*)

SHRI T.M. SELVAGANPATHI : He is like you.

SHRI T.R. BAALU: Sir, the Saharia Committee was established but without logistical support. There was no accommodation ...(*Interruptions*)

SHRI DALIT EZHILMALAI(TIRUCHIRAPPALLI) : You are a Minister in the Government.

SHRI T.R. BAALU: You were also a Minister once. You behaved like this and that is why you are sitting on the other side now. ...(*Interruptions*)

SHRI DALIT EZHILMALAI : It is the responsibility of the Government to provide logistical support to the

Committee....(*Interruptions*)

SHRI T.R. BAALU: Saharia Committee was yet to be given accommodation, computers, etc., that is why some delay occurred and it took off very late. I do not deny that....(*Interruptions*)

DR. V. SAROJA : It is the responsibility of the Council of Ministers as a whole, including you.

SHRI T.R. BAALU: I agree with you that it includes me. I just said that myself. Do you not understand my English?...(*Interruptions*) After seven months, we wanted that the Committee should be provided with enough teeth to bite. That is why an Ordinance was brought. To replace that Ordinance this Amendment Bill has been brought before the House.

What is the Bill about? It is about Section 60 of the Act. The problem arises out of Section 21(3), with the interpretation of the word 'terrorist'. Is a Parliamentarian a terrorist? Is a journalist a terrorist? Is a nationalist a terrorist? We have to interpret that. The problem arises only from the interpretation of the term 'terrorist'.

Sir, laws and legislation are made to be implemented by rulers and administrators, not by tyrants. ...(*Interruptions*)

SHRI RAM VILAS PASWAN (HAJIPUR): Baaluji, are you supporting the Bill or opposing it?

SHRI T.R. BAALU: Sir, more than 137 Members of Parliament have requested the Government to intervene and see that Nakkeeran Gopal is released. In the case of Shri Vaiko, more than 300 Members of Parliament approached the Government. All these things are a bit irksome for a coalition partner like me.

My party headed by Dr. Kalaignar Karunanidhi has got some reservations over this. There is no doubt about it. We are always transparent. We never hide anything. That is why, from the very beginning of my speech, I said that we have a difference of opinion with the Prime Minister, with the Deputy Prime Minister and with my colleagues, but the difference of opinion ...(*Interruptions*)

SHRI PRIYA RANJAN DASMUNSI : Sir, I am on a point of order. ...(*Interruptions*)

MR. CHAIRMAN : Shri Baalu, please sit down. He is on a point of order.

...(*Interruptions*)

SHRI T.R. BAALU: Sir, if the point of order is irrelevant, you have to give me more time....(*Interruptions*)

MR. CHAIRMAN: Hon. Members, please take your seats. He is on a point of order and I have allowed him.

...(*Interruptions*)

SHRI KIRIT SOMAIYA (MUMBAI NORTH EAST) : Under what rule?â€¦ (*Interruptions*)

SHRI C.P. RADHAKRISHNAN (COIMBATORE): Sir, let the Minister complete his sentence. He is intervening in the middle of the sentence. Point of order can be raised after the Minister completes his sentence. ...(*Interruptions*)

SHRI PRIYA RANJAN DASMUNSI : Sir, my very good friend T.R. Baalu, a distinguished Minister...(*Interruptions*)

SHRI KIRIT SOMAIYA : Sir, under what rule is he raising this point of order?...(*Interruptions*)

SHRI PRIYA RANJAN DASMUNSI : Under article 74 of the Constitution.

MR. CHAIRMAN: He is raising his point of order under article 74 of the Constitution.

SHRI KIRIT SOMAIYA : He has to quote the rule before he raises his point of order.

MR. CHAIRMAN: He has already quoted the rule. It is under article 74 of the Constitution that he is raising his point of order.

SHRI PRIYA RANJAN DASMUNSI : Sir, perhaps Shri Kirit Somaiya needs a hearing aid and that is why he is not able to hear me.

Shri T.R. Baalu the leader of DMK party, for whom I have the highest respect, has just now stated that on this issue, he has a difference of opinion with the Prime Minister, the Deputy Prime Minister and his cabinet colleagues. Being a member of the Council of Ministers if he says so, what happens to concept of collective responsibility?...(*Interruptions*)

SHRI T.R. BAALU: Sir, I was in the middle of my sentence when he intervened.

SHRI KIRIT SOMAIYA : This is not a point of order, Sir. He has not quoted any rule.

SHRI T.R. BAALU: Sir, my friend Shri Dasmunsi is in a great hurry to embarrass us but it is not at all possible. ...(*Interruptions*)

SHRI PRIYA RANJAN DASMUNSI : Sir, I am not saying that.â€¦ (*Interruptions*) I am here to protect the rules of the House and the Constitution. He is one of my best friends. He has just now quoted: "I differ with the Prime Minister and the Deputy Prime Minister about this Law."...(*Interruptions*) He differs with them being a Minister...(*Interruptions*) They have the collective accountability. He has to justify it....(*Interruptions*)

SHRI KIRIT SOMAIYA : There is no point of order...(*Interruptions*)

SHRI T.R. BAALU: Sir, as a party man, as a Member of Parliament belong to DMK, it is for me to express the feelings of my party outside. As a Member of Parliament what I have said is correct even now. But at the same time, if my friend wants to interrupt the things, he will be miserably failing in doing his duties. He should please take care of that...(*Interruptions*)

Sir, if the Law which has been enacted in good faith and good cause is being mishandled, misutilisd and misused. Are we to keep lukewarm attitude? Are we to keep a mum? No. We should not keep lukewarm attitude....(*Interruptions*)

That is why yesterday, there was a picketing in the whole of Tamil Nadu. More than three lakh people participated in that picketing. They had been arrested. Then for want of space, for want of water, for want of food, they were released yesterday....(*Interruptions*) I agree with you. Were they not detained for the whole day? Is it not a fact?â€¦ (*Interruptions*) You could not accommodate three lakh people. You did not have the accommodation at all, you did not have water to serve them...(*Interruptions*)

Sir, if the corrective measures are not taken by my friends here, if the corrective measures are not taken by our Cabinet colleagues *Vaiko* will happen; if the corrective measures are not taken, *Nakkiran* will happen; if the corrective measures are not taken, *Nedumaran* will happen. The jails of the entire Tamil Nadu will be filled up not by the terrorists but by the law-abiding citizens...(*Interruptions*)

SHRI T.M. SELVAGANPATHI : Sir, the Supreme Court has given a clear cut verdict that there existed a *prima facie* case...(*Interruptions*) The Supreme Court has come out clearly that there was a *prima facie* case...(*Interruptions*)

SHRI T.R. BAALU : My friend from the MDMK party has given a notice for bringing before the House an amendmentâ€¦

SHRI T.M. SELVAGANPATHI : He is bringing an amendment to the amendment.

SHRI T.R. BAALU: Yes, you are correct. At least, here you are correct...(*Interruptions*) On the request of the MDMK, the Government itself is coming forward with the amendment....(*Interruptions*)

SHRI T.M. SELVAGANPATHI : Please tell us whether you are opposing the Bill or supporting the Bill....(*Interruptions*)

SHRI T.R. BAALU: Sir, I support the Government. But at the same time, for abundant caution, it is better to see that the POTA is not misused. If it could be misused by the people in power, it has to be scrapped.

SHRI T.M. SELVAGANPATHI : Are you opposing it or supporting it?...(*Interruptions*)

MR. CHAIRMAN: Now, Shri Prabhunath Singh

...(*Interruptions*)

MR. CHAIRMAN: Nothing will go on record except the speech of Shri Prabhunath Singh.

*(Interruptions)* *

* Not Recorded.

**श्री प्रभुनाथ सिंह (महाराजगंज, बिहार) :** सभापति जी, पोटा कानून पहले पास हो चुका है, अभी इसमें एक छोटा सा संशोधन बिल लाया गया है। जब पोटा का यह कानून लोक सभा में आया था, उस समय इसके पक्ष और विपक्ष में दोनों पक्ष के सदस्यों ने अपने-अपने तर्क रखे थे। जो देश में आतंकवाद फैलाने वाले लोग हैं या आतंकवाद से जुड़े हुए लोग है, उन पर कार्रवाई करने के लिए सरकार ने अपनी सूझ-बूझ और सोच के साथ यह कानून बनाया। इसके लिए ज्वाइंट सैशन बुलाया गया और उसमें यह बिल पास हुआ। आज इस संशोधन के लाने का सीधा मतलब इतना है कि कहीं न कहीं सरकार को यह महसूस हो रहा है कि पोटा लगाने वाले लोग या पोटा लगाने वाली राज्य सरकारें जानबूझकर ज्यादती कर रही हैं या गलत कर रही हैं।

आज इस बिल में मात्र इतना सवाल है कि जो संशोधन सरकार द्वारा लाया गया है, अगर उससे सहमत हैं तो इसके पक्ष में हैं और खिलाफ हैं तो विपक्ष में हैं। हमें समझ में नहीं आता कि आखिर विपक्ष के लोग किस बात पर असहमति जता रहे हैं। क्या ये समझ रहे हैं कि जो पोटा कानून बनेगा, यह तोप है और इस तोप को लेकर आतंकवादियों से लड़ा जाएगा? यह तोप नहीं है। यह कानून मात्र इतना करेगा कि हमारी पुलिस, सेना या खुफिया एजेन्सियों के लोग जब आतंकवादियों को पकड़ लेंगे और गिरफ्तार कर लेंगे तो इस कानून के तहत उन पर कार्रवाई की जाएगी। लेकिन इस कानून में इनको त्रुटि दिखाई देती है कि राजनैतिक दृटिकोण से िवरोधियों पर यह लगाया जा रहा है। कहीं-कहीं इसका गलत इस्तेमाल हुआ है।

अभी हमारे एक साथी कह रहे थे कि गुजरात में एक संप्रदाय के ज्यादा लोगों को गिरफ्तार किया गया है और पोटा लगाया गया है। यह बात इनको आज समझ में आ रही है? जिस दिन पोटा लग रहा था, पोटा कानून बन रहा था तो ये इसके समर्थन में मज़बूती से खड़े थे। जिस दिन गुजरात में चुनाव हो रहे थे, उस समय प्रधान मंत्री के मंच पर इनकी नेता जाकर भाण दे रही थीं और भारतीय जनता पार्टी के पक्ष में वोट मांग रही थीं, वकालत कर रही थीं। उस दिन उनको गुजरात में अल्पसंख्यक दिखाई नहीं दे रहे थ। लेकिन जब ये अलग हो गए, इनकी सरकार अपनी असल जगह धरती पर पहुँच गई तो इनको पोटा कानून गलत दिखाई दे रहा है, अल्पसंख्यक दिखाई दे रहे हैं।

सभापति जी, इसका गलत उपयोग हुआ है और प्रियरंजन दासमुंशी जी कह रहे थे कि चूंकि श्री वैको जेल में हैं, उनको खुश करने के लिए यह सरकार इस ढंग का बिल ला रही है। हम दासमुंशी जी से एक निवेदन करना चाहते हैं कि आपके ही बताने के अनुसार झारखंड में काफी लोग जेल में बंद हैं, गुजरात में काफी लोग जेल में बंद हैं, उत्तर प्रदेश में राजा भैया रघुराज प्रताप सिंह जेल में बंद हैं। वे सरकार को समर्थन नहीं दे रहे थे, तो समर्थन नहीं देने के कारण वे ही नहीं, उनके वृद्ध पिता भी जेल में बंद हैं। वैको जेल में बंद हैं तो क्या सिर्फ वैको के मामले की समीक्षा होगी? नहीं। जितने लोग इस पोटा मुकदमे में जेलों में बंद हैं और जो लोग आवेदन करेंगे, उन सबके मुकदमों की समीक्षा होगी और जो लोग निर्दो होंगे, वे जेल से मुक्त किये जाएंगे, यह इस संशोधन का मतलब है। इस संशोधन का मतलब लोग समझ नहीं पाते हैं। हल्ला कर रहे हैं कि यह तोप है जो आतंकवादियों से लड़ेगी, लड़ने में सक्षम है, नहीं है। ऐसा कानून इस देश में पहली बार नहीं बना है। जब-जब देश में परिस्थिति महसूस हुई है, कानून बने हैं और कानून जब बनता है और लागू किया जाता है तो उसमें संशोधन भी समय समय पर होते रहते हैं। चूँकि कानून जब बनता है और लागू होता है तो मालूम होता है कि उसमें क्या त्रुटियां रह गईं, क्या सही है और उन सबकी समीक्षा करके उसमें संशोधन करने का प्रस्ताव लाया जाता है। आज केन्द्र सरकार ने मात्र इतना ही प्रस्ताव दिया है कि पोटा का कानून यथावत है लेकिन कहीं-कहीं से जो शिकायतें मिल रही हैं उन शिकायतों के आधार पर राज्य में और केन्द्र में एक पुनरीक्षा समिति बनेगी और समीक्षा करके जो लोग निर्दो होंगे, उनको जेल से मुक्त कर दिया जाएगा।

माननीय सभापति महोदय, माननीय उप प्रधान मंत्री जी ने भूमिका में सारे तथ्यों को सही-सही रख दिया है, इसलिए इसके बाद कोई लंबा भाण करने की ज़रूरत नहीं है। लेकिन हम दो संशोधन और सुझाव आपके माध्यम से माननीय उप प्रधान मंत्री जी को देना चाहते हैं। एक सुझाव हम उनके विचारार्थ रखना चाहते हैं कि यह ठीक है कि एक समिति बनेगी और समीक्षा करेगी तथा जो निर्दो होंगे, उनको जेल से मुक्त कर दिया जाएगा। लेकिन जो लोग एक साल, दो साल या पांच साल उस जेल में अपनी ज़िन्दगी गुज़ारेंगे, सामाजिक ज़िन्दगी, राजनैतिक ज़िन्दगी में जिन लोगों को आर्थिक, पारिवारिक और मानसिक क्षति झेलनी पड़ेगी, अगर पांच साल बाद आप उनको मुक्त करते हैं तो उनकी भरपाई का कोई इंतज़ाम बिल में किया है या नहीं?

सभापति जी, हम दूसरी बात आपके माध्यम से उप प्रधान मंत्री जी के ध्यान में यह लाना चाहते हैं कि जब पोटा किसी के ऊपर लगाया जाता है, तो कहीं न कहीं, कोई न कोई पदाधिकारी या किसी अधिकारी की तरफ से प्रस्ताव दिया जाता है कि वहां एक आतंकवादी है या वहां एक आदमी है जो आतंकवादियों का रिश्तेदार है या वहां एक व्यक्ति आतंकवादियों की आर्थिक सहायता करता है, इस प्रकार की समीक्षा कर के वह अधिकारी सरकार को प्रस्ताव देता है फिर सरकार उस प्रस्ताव पर अपनी मुहर लगाती है और आदेश देती है तब वह व्यक्ति गिरफ्तार होता है और उसे पोटा के तहत जेल में बन्द कर दिया जाता है। मैं यह पूछना चाहता हूं कि क्या इस कानून में क्या ऐसा कोई प्रावधान नहीं होना चाहिए कि जो पदाधिकारी राजनीतिक दबाव में राजनीतिज्ञों पर पोटा लागू करने का प्रस्ताव देते हैं, उनके खिलाफ भी पोटा पुनरीक्षा कमेटी विचार करे और उन्हें भी इसी के तहत दंड देने की जिम्मेदारी ले ? यदि ऐसा होगा, तो हम मानेंगे कि पोटा का दुरुपयोग नहीं होगा।

सभापति महोदय, बहुत सी राज्य सरकारें हैं जिन्होंने अपने यहां पोटा कानून को लागू नहीं किया है। जो राज्य सरकारें ऐसा नहीं कर रही हैं, उनके ऊपर दबाव डाला जाए कि इस देश में इस कानून को तेजी से लागू किया जाए और आतंकवाद को पूर्ण रूप से रोका जाए। इन्हीं शब्दों के साथ जो बातें मैंने कही हैं उन पर सरकार ध्यान देगी, यह निवेदन करके मैं अपनी बात समाप्त करता हूं।

SHRI BHARTRUHARI MAHTAB (CUTTACK): Thank you, Mr. Chairman, Sir. I stand here to discuss about the Bill to amend the Prevention of Terrorism Act, 2002.

I would like to remind this House that initially, in seventies Madam Indira Gandhi had enacted what was then the most stringent preventive detention Act named MISA. The Opposition had very forcefully criticised the MISA Act, both inside and outside the Parliament. Subsequently, MISA became one of the major tools to be utilised to counter the political opponents. But she had solemnly guaranteed on the floor of this House that, "no political person would be held under MISA".

This is on record in this House. But in mid seventy many Opposition Leaders were interned for 19 months in this country. It was scrapped when the Janata Party came to power. When Shrimati Indira Gandhi came back to power, she felt the need of a preventive detention law. Then TADA came in force. I had mentioned this when POTA was

being discussed in this House and later on in the Joint Session in the Central Hall I had ventilated my feelings. Ultimately, under this Government, TADA also was scrapped. Later on it was felt that we should have a preventive law. There are two categories of laws. This is a preventive law, to prevent different criminal activities. This law is necessary and that is the main reason why this law has been enacted.

The major problem today, which is being discussed in this country, is to curtail the abuse of this Act. I would like to remind this House that for the first time the Central Review Committee was constituted in March, 2003 under the Chairmanship of former Chief Justice of Punjab and Haryana High Court, Shri A. Saharya to look into the complaints in regard to the misuse of this Act. This reminds me that in 2002 when POTA Bill was being discussed, I had raised it, referring to the DIR Act during colonial period, the hon. Deputy Prime Minister in his reply had assured this House that he would see to it that this Act would be used in the rarest of rare cases. He had also assured this House that if there was any misuse, adequate steps would be taken to correct the Act. This is being done today. I may also say that when the Central Review Committee looked into the complaints, it had mentioned in its report, it found that the provisions of this law had been invoked and I quote;

"Even against such persons and acts which do not fall within the ambit of this law."

This has actually I think empowered the Government to bring the Bill which preceded with an Ordinance. I would like to draw the attention of the hon. Deputy Prime Minister that even after the amendment, there are certain flaws in the Act. For instance there is no time limit provided in the Ordinance for the disposal of complaints by the Review Committee. This lapse would make the amendment useful only in bailing out influential persons. But apprehension will still be there that common people would be left to their fate. The rule of law demands equality of treatment in equal circumstances or in equal crimes.

Now I come to the second point on which I would like the hon. Deputy Prime Minister to deliberate. Besides the power to appoint Review Committee members should be taken away from the executive and vested in the apex court of the land. That would clear the clouds in regard to their impartiality and fairness. The flagrant misuse of POTA is what the central issue is and that is being discussed today and a close look at the proposed amendment would indicate that the basic character of the debatable law remains virtually unchanged. Yet I would say that the law vests the executive with arbitrary and overriding powers. These are now sought to be mitigated by a wiser and a sadder Government.

The overriding statutory powers given to the Central Review Committee headed by Justice A. Saharya whose decision will be binding on the Centre, the State and the Investigating Official in case of conflicting findings should work as an effective check on the arbitrary and whimsical action of the likes whom I need not name. This should not be viewed as an attempt by the Centre to impinge on the legitimate rights of the State Government nor can it be regarded as a law and order subject in the State List. In fact, under the law, the States can set up review committees to deal with the complaints lodged by those who are charged under POTA. All political parties should ensure − this is my earnest request − smooth passage of the Bill in Parliament. The need for an effective safeguard against the misuse of POTA has become greater today. It would have been better if the Bill provided for a specific time limit for the disposal of complaints by the Review Committee. On behalf of my Party, I extend full support to this Bill.

**डॉ. रघुवंश प्रसाद सिंह (वैशाली) :** सभापति महोदय, यह जो पोटा कानून है, इस पर जब सन् 2002 के मार्च में बहस हो रही थी तो संयुक्त विपक्ष ने बार-बार सरकार को चेतावनी दी, आगाह किया कि यह ड्रेकोनियन कानून है - नो अपील, नो वकील और नो दलील वाला कानून है। इसका बड़ा भारी दुरुपयोग होगा, हम लोग इसके खिलाफ हैं आप इसे मत लागू कीजिए, लेकिन ये जिद्द पर अड़े हुए थे। यह लोक सभा में पास हो गया, क्योंकि यहां बहुमत है लेकिन राज्यसभा में पास न होने से ये इतने जिद्द पर अड़े थे कि संयुक्त सदन बुला कर इन्होंने इसे पास करा लिया। लेकिन अब इतने महीनों के बाद ये इसे फिर लेकर आए हैं। उस समय िवपक्ष ने कहा था, सावधान किया था और चेतावनियां दी थीं। विपक्ष की चेतावनियां, उनकी आशंकाएं और उनकी तरफ से सरकार को सावधान किया गया था, ये सारी बातें सही निकलीं। माननीय उप-प्रधानमंत्री जी और सरकार अब इस निर्का पर पहुंची है कि इसका दुरुपयोग हो रहा है, उस समय माननीय गृह मंत्री जी का बयान था कि हम इसका दुरुपयोग नहीं होने देंगे।

अरुण जेटली एक होशियार मंत्री हैं, वे बयान करते थे कि 302 का भी दुरुपयोग होता है तो इसका भी कुछ दुरुपयोग होगा तो कोई हर्ज नहीं है। माननीय गृह मंत्री जी ने वचन भंग किया है। इसका दुरुपयोग हुआ, यह आपके एमेंडमेंट से ही साबित है। संयुक्त सदन को भी आपने पास कराने के वक्त में आश्वासन दिया था कि इसका दुरुपयोग नहीं होने देंगे, लेकिन इसका दुरुपयोग हो रहा है, दुरुपयोग हुआ है।

तमिलनाडू में देख रहे हैं, आपके सहयोगी मंत्री क्या बोल रहे हैं और एक माननीय सदस्य हमारे पक्ष में बैठते हैं, ये भी आपकी तरफ से क्या बोल रहे हैं। इसका गुजरात में दुरुपयोग हुआ, झारखण्ड में 700 लोगों को गिरफ्तार किया गया, जिनमें बच्चियां थीं, लड़कियां थीं, बूढ़े थे। बाद में सरकार ने कबूल किया कि हां, दुरुपयोग हुआ है और उनको छोड़ा भी गया। यह साबित हो गया कि इसका दुरुपयोग हुआ है। माननीय उप-प्रधानमंत्री जी, आपने वचनभंग किया, आपने कहा कि हम दुरुपयोग नहीं होने देंगे। आज आपने फिर बयान बदल दिया, अरुण जेटली वाला बयान बोल रहे हैं कि 302 की तरह हो सकता है। क्या धारा 302 का, धारा 107 का और धारा 323 का दुरुपयोग और पोटा का दुरुपयोग बराबर है? क्या लाठी, सोटी, घूंसा, मुक्के का दुरुपयोग और ए.के. 47 का दुरुपयोग बराबर है? किस हिसाब से आप यह कुतर्क देते हैं? इसलिए उप-प्रधानमंत्री जी इसमें सदन में वचनभंग करने के कसूरवार हैं, इसलिए इनको त्याग-पत्र देकर वापस आना चाहिए। अब ये क्या तर्क देंगे? अब यह तर्क देना कि कोर्ट छोड़ देगा, 6 महीने, साल भर, दो साल जेल में रहे तो क्या माननीय सदस्य का विशेाधिकार भंग नहीं हुआ। वहां जेल में बन्द हैं और अब

ये अपने एटार्नी जनरल श्री सोली सोराबजी से लिखवाकर उसमें दे रहे हैं कि टैरेरिस्ट एक्टिविटी नहीं हुई। केवल बयान देना या बोलना करने की तरह खराब नहीं है, इसलिए केन्द्र सरकार की तरफ से यह बयान हो रहा है। अब ये लाचारी और विधवा विलाप यहां करने आये हैं। ये अब इसकी पुनरीक्षण समिति बनाएंगे।

हम लोगों ने तमाम घटनाओं को देखने से, आपकी नीयत और आपके काम को देखने से हम इस निर्का पर पहुंचते हैं कि समीक्षा समिति और पुनरावलोकन समिति भी इसमें कारगर नहीं होगी और न्याय नहीं दे पाएगी। Jurisprudence is the eye of the law. न्याय सिद्धान्त का सबसे प्रबल कानून है कि कोई कसूरवार छूट जाये तो वह खराब है, लेकिन अगर बेकसूर को सजा हो जाये तो उसकी माफी पृथ्वी पर कहीं नहीं है, उससे बड़ा कोई अन्याय नहीं है। मैं समझता हूं कि इस मंत्रिमंडल में उप-प्रधानमंत्री को जूरिसप्रूडेंस की लाज भी नहीं है। न्याय सिद्धान्त से इनकी थोड़ी सी भी नजदीकी नहीं है, विश्वास भी नहीं है। अब इस तरह सेâ€¦ (व्यवधान)

**श्री विणु पद राय (अंडमान और निकोबार द्वीप समूह) :** ये अनपार्लियामेंटरी शब्द यूज कर रहे हैं।

â€¦ (व्यवधान)

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS AND MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS (SHRI HARIN PATHAK): Sir, this is unparliamentary and totally objectionable. Shri Advani is not only the Home Minister but also the Deputy Prime Minister of the country. He cannot pass such remarks against himâ€¦â€¦ (*Interruptions*)

**सभापति महोदय :** अगर कुछ ऑब्जैक्शनेबल है, अगर कोई आपत्तिकर बात है...

...(व्यवधान)

**सभापति महोदय** : आप बैठिये। अगर इन्होंने कोई आपत्तिकर वक्तव्य रखा है तो वह देखा जायेगा। अगर कोई ऐसी आपत्तिकर बात होगी तो उसे एक्सपंज किया जायेगा।

SHRI KIRIT SOMAIYA : Sir, he should withdraw those words. He must be asked to withdraw those wordsâ€¦...(*Interruptions*) इसे आप कैसे एलाऊ कर सकते हैं? इसे आप कैसे एलाऊ करेंगे?

**सभापति महोदय :** आप बैठिये। रघुवंश प्रसाद जी, अब आप समाप्त कीजिए। आपका भााण पूरा हो गया।

**डॉ. रघुवंश प्रसाद सिंह** : सभापति महोदय, इसलिए फिर संयुक्त विपक्ष की ओर से हम आगाह कर रहे हैं।

यह एक ड्रेकोनियन कानून है और इसमें पैबन्द लगाने से इस कानून में सुधार होने वाला नहीं है, इसका दुरुपयोग रुकने वाला नहीं है। पोलिटिकल वेंडेटा, राजनीतिक बदले की भावना से,â€¦ (व्यवधान)

â€¦ (व्यवधान) कार्य करने के लिए इसका दुरुपयोग हो रहा है। इसीलिए इस पोटा कानून को सरकार रिपील करे, इसे सरकार वापस ले और इसे खत्म करे। धन्यवाद।

MR. CHAIRMAN : The next speaker is Dr. Bikram Sarkar.

Dr. Bikram Sarkar, be very brief because there are 10 more Members who want to participate in this debate.

DR. BIKRAM SARKAR (PANSKURA): How much time can I take?

MR. CHAIRMAN: Try to finish within five minutes.

DR. BIKRAM SARKAR : All right. I will finish within that time limit.

DR. BIKRAM SARKAR (PANSKURA): Mr. Chairman, sir, I am grateful to you for giving me this opportunity to participate in the discussion on the Prevention of Terrorism (Amendment) Bill, 2003. This Bill has been brought to achieve a limited purpose. But you may kindly permit me to speak a little beyond the scope of this Bill.

Sir, the spate of terrorism and specially cross-border terrorism, with various manifestations, has been a burning issue in our country for more than a decade now. A large number of people, the peace-loving citizens of India, who have the right to life and property, have fallen as victims of terrorist activities and recent incidents also justify this.

Sir, you might recollect that from our party, the All India Trinamool Congress, we had misgivings that, based on the sad experience in the past of MISA and TADA, this law is likely to be grossly misused and abused for giving vent to political vendetta and so we abstained from voting when the original Bill was passed last year. Our apprehension has been vindicated now. We feel that the sad experience of MISA and TADA should have given us enough scope to draft the Bill by plugging the loopholes in the Act itself, but that is beyond the point now. The question is, how we should use it and, as a matter of fact, in whose hands the use of this law should be entrusted.

Sir, I was a Collector many years ago when MISA was being used. So, I know for certain that the Government machinery was under tremendous pressure and had to function as a tool of political power. That was the position at that time. This is the experience of MISA and TADA and even my friends from the Congress Party also feel sad about the misuse of TADA. My point is, if we know for certain that this is going to be misused, we should have been a little careful about it and that is why we abstained from voting last year, but that is again beyond the point now.

At the same time, we cannot ignore the menace of terrorist activities in our country and we need a special law to tackle the special situation. But while doing that, the Government should also be careful to ensure that the remedy does not aggravate the disease. The Congress-ruled States of Karnataka and Maharashtra have enacted most stringent laws than POTA to fight organised crimes. The CPI (M) in West Bengal also propose to promulgate POCO, about which you might be aware of. It is very clear that organised crime is a lesser crime than terrorism.

Coming to this Bill, I was going through the Statement of Objects and Reasons given by the hon. Deputy Prime Minister. It has been conceded there that even at the time of passing POTA, there were certain loopholes, probably certain expectations and those expectations were belied. There are illustrations of this from different States including Tamil Nadu and that is why they have come up with this Bill by making an amendment to Section 60 (2) of the Act for giving more powers to the Review Committee. Earlier, it was advisory in nature. Now they say that it will be having some powers, some force and some teeth. But I have got two suggestions. Mr. Deputy Prime Minister, it should be time-bound so that, in any case, they should get justice and justice should be given as quickly as possible.

Secondly, if you have the Review Committee only at the Central level, they must be having any number − you can have the States represented in that. Probably, that will help in such matters.

With these words, I thank you for giving me this opportunity.

**18.56 hrs.** (Mr. Speaker *in the Chair*)

MR. SPEAKER: Now, Shri Ajoy Chakraborty. Before you start, let me make it clear that as we agreed, this Bill, including the Minister's reply, was to be finished by five o'clock. I had announced it also. We have given about two hours more to this Bill. Therefore, I would permit the Members to speak only for two minutes. They can make their points so that we can finish the Bill today.

Thereafter the Demands for Grants are also to be taken up.

श्री राजेश रंजन उर्फ पप्पू यादव : लोग बहुत समय ले लेते हैं। हम इतनी देर से अपने समय का इंतजार कर रहे हैं।

**अध्यक्ष महोदय** : मुझे भी अच्छा नहीं लगता बार-बार कहना, लेकिन कोई रास्ता नहीं है। For small parties, there are a total of 10 or 15 minutes. I want to finish it in 15 minutes. मैं आपको भी दो मिनट दूंगा।

SHRI AJOY CHAKRABORTY (BASIRHAT): Mr. Speaker, Sir, the Government is very much in a hurry and seriously interested in favour of this draconian law. Without taking the Parliament into confidence, the Government promulgated the Ordinance. Today, the hon. Deputy Prime Minister has brought forward this Amending Bill regarding the functioning of the Review Committee.

When the law was brought forward before this House earlier, we − the entire Opposition − opposed it tooth and nail. We apprehended that this draconian law will be used against political opponents and it would be targeted against the people belonging to the minority communities. But it was lost in the Rajya Sabha. The Government convened a Joint Session of Parliament. Ultimately it was passed by a majority vote.

Leaving that apart, this law is still in force. We have witnessed what has happened so far. So many State Governments are misusing this draconian law. Many of our hon. colleagues have mentioned the names of those States. Now take, for instance, Jharkhand. They are misusing this law. Even a 12-year old boy and an old man were detained behind the bars within the purview of this law. Not only that, in Uttar Pradesh they detained an MLA − a political opponent − under POTA. In Gujarat, the Government headed by Shri Narendra Modi has particularly targeted the people belonging to the minority communities. They have detained so many people who belonged to the minority communities under POTA. When this Bill was discussed in this House, our colleague, Shri Vaiko was very vociferous. He strongly argued and pleaded in favour of this draconian law. It is an irony of fate that he is now in jail under this law. Our information is that he was released yesterday morning by a single-judge bench. Ultimately, in the dead of night, the Division Bench set aside that order.

MR. SPEAKER: Shri Chakraborty, please conclude.

SHRI AJOY CHAKRABORTY : He is still in custody. He has no rights as a Member of Parliament to participate in this discussion. He has been restrained from coming to the Parliament. What have we witnessed? The Parliament was attacked. At that time, the Ordinance was promulgated. That Ordinance was in force. Having passed this law, could the hon. Deputy Prime Minister cite a single instance that the terrorist activities have been checked? Have the terrorists been prevented from doing illegal activities and committing heinous crimes?

**19. 00 hrs.**

MR. SPEAKER: Shri Chakraborty, please take your seat.

SHRI AJOY CHAKRABORTY : Sir, I will finish in one minute.

MR. SPEAKER: No, I have called, Shri D.P. Yadav now.

...(*Interruptions*)

MR. SPEAKER: Nothing further will go on record. Shri Yadav, if you do not speak now, I will call another Member.

*(Interruptions)* *

*** Not Recorded.**

**श्री देवेन्द्र प्रसाद यादव (झंझारपुर) :** अध्यक्ष महोदय, पोटा संशोधन विधेयक, 2003 के जरिये जो सेंट्रल रिव्यू कमेटी बनाने की बात है मैं आपके माध्यम से उसका अर्ज करना चाहता हूं कि संयुक्त अधिवेशन के जरिये पोटा विधेयक को कानून में अमली जामा पहनाया गया था। इसका प्रयोजन संसदीय इतिहास में असाधारण तरीके से किया गया। उस समय हमने जो आशंकाएं व्यक्त की थीं वे सही निकलीं। मैं माननीय उप-प्रधान मंत्री जी का आदर करता हूं, वे खुद भी मीसा और डीआईआर के भुक्तभोगी रहे हैं। हमने उस समय भी यह सवाल उठाया था कि जब इस तरह के कानून बनते हैं तो उसमें राजनैतिक प्रतिशोध की भावना से लोगों को प्रताड़ित करने का यह एक हथियार बनता है। सन् 1974-75 में मीसा कानून के अंतर्गत यह प्रयोग हुआ। हम लोग 18 महीने जेल में रहे हैं। माननीय उप-प्रधान मंत्री जी और इस कतार के भी बहुत लोग जेल में थे। बगल में बैठे लोग भी जेल में थे। उस समय मीसा और डीआईआर का दुरुपयोग हुआ था। वर्ा 1993 में टाडा कानून बना था जिसका 98 प्रतिशत दुरुपयोग हुआ। अब पोटा कानून आया है। बड़ी दुर्भाग्यपूर्ण स्थिति है। जब पोटा बन रहा था उस समय भी हम लोगों ने आशंका व्यक्त की थी। आज सेंट्रल रिव्यू कमेटी उसकी समीक्षा के लिए बनाई जा रही है। अगर समीक्षा कमेटी के जरिये भी निर्दोा लोगों को न्याय नहीं मिला, तब क्या होगा? माननीय वाइको जी इसी सीट पर बैठते थे और आज वे सदन में नहीं हैं। उत्तर प्रदेश, तमिलनाडु और झारखंड में इसका दुरुपयोग हुआ है। मैं कहना चाहता हूं कि गुजरात में इसा दुरुपयोग बड़े पैमाने पर हुआ है। â€¦ (व्यवधान) चाहे कोई राज करे, इस तरह के कानून का दुरुपयोग होता ही है। रघुराज प्रताप सिंह जी क्या उत्तर प्रदेश में इसके तहत बंद नहीं हैं। उनके पिता जी भी जेल में बंद हैं। झारखंड में 80 वर्ा के बूढ़े को इसके तहत बंद कर दिया गया। छात्र, नौजवान जो स्कूल में थे उन पर पोटा लगा दिया गया था। इसलिए मैं कहना चाहता हूं कि मैं मस्तिक प्रधान आदमी नहीं हूं। माननीय लॉ-मिनिस्टर मस्तिक प्रधान आदमी हैं। हम लोग तो हृदय प्रधान हैं। चालाकी से सब कुछ नहीं होता है। यह जो समीक्षा आप लाए हैं, आप गारंटी करिये, हम इसे मानने के लिए तैयार हैं। आप गारंटी कीजिए, फिर बिल लेकर न आइयेगा । अगर सदन मार्च तक रह गया फिर आप दुबारा आने वाले हैं। मैं इतिहास में सदन की प्रोसीडिंग दर्ज कराना चाहता हूं कि इन्हें फिर आना पड़ेगा क्योंकि इससे समस्या का निराकरण होने वाला नहीं है। मैं आपके माध्यम से आशंका व्यक्त करता हूं कि सेंट्रल रिव्यू कमेटी के द्वारा आप संशोधन करके ताकत ले लीजिए, लेकिन इससे भी इसका निराकरण नहीं होगा। आप कहेंगे कि पदाधिकारियों ने ठीक से रिपोर्ट नहीं दी या हमने जो रिव्यू किया, उसमें त्रुटि रह गयी, कमी रह गयी, फिर क्या होगा? माननीय प्रभुनाथ सिंह जी ने ठीक ही कहा कि दो-तीन साल से राजनैतिक प्रतिशोध के कारण लोग प्रताड़ित हो रहे हैं। यह ऐसे ही हुआ कि "ज्यों-ज्यों मर्ज बढ़ता गया त्यों त्यों दवा की।" हमारा निश्चित मत है कि पोटा कानून का राजनैतिक विरोधियों को पकड़ने के लिए, कुचलने के लिए प्रयोग किया जाएगा। आतंकवादी को कुचला जाए, तो अच्छी बात है और सब लोग उसका समर्थन करेंगे। मैं समझता हूं कि चाहे केन्द्रीय सरकार या राज्य सरकार हो, किसी को भी राजनीतिक प्रतिशोध की भावना से कुचलने का मौका इस संशोधन के माध्यम से नहीं दिया जाना चाहिए। इस संशोधन के माध्यम से आतंकवादियों को कुचला जाना चाहिए। इस बात की क्या गारन्टी है कि इस कानून का दुरुपयोग नहीं होगा। बड़े पैमाने पर इस कानून का दुरुपयोग होता है और किसी की गारन्टी का पता नही चलता है। न रहे बांस न बजे बांसुरी। इसे वापस ले लीजिए ।

**अध्यक्ष महोदय** : आपको दिया हुआ समय समाप्त हो गया है। मैंने रामविलास पासवान जी को बोलने के लिए बुलाया है। उनकी बात रिकार्ड में जाएगी, आपकी बात रिकार्ड में नहीं जाएगी।

**श्री राम विलास पासवान (हाजीपुर) :** अध्यक्ष महोदय, अभी उपप्रधान मंत्री जी ने अपने भाण में दो बातें कही हैं। एक बात इन्होंने यह कही है कि आतंकवाद का खतरा पूरे संसार में है और दूसरी बात कही है कि दूसरे देशों में पोटा से भी अधिक खतरनाक कानून हैं। मैं समझता हूं कि जितना दुरुपयोग इस कानून का भारत में हो रहा है, वैसा दुरुपयोग अन्य किसी देश में नहीं हो रहा है। वे उस देश का नाम बतलायेंगे, जहां ऐसे कानून के द्वारा इस तरह का दुरुपयोग होता है।

महोदय, मैं बुनियादी सवाल के ऊपर अपनी बात कहना चाहता हूं। कानून में धारा-60 के मुताबिक रिव्यू कमेटी आलरैडी है और अब उस रिव्यू कमेटी को आप पावर देना चाहते हैं। उस रिव्यू कमेटी की जो फाइन्डिंग्स होंगी, जो निर्णय होगा, वह केन्द्र और राज्यों, दोनों पर, लागू होगा। इस एक्ट में धारा-7 इन्वैस्टिगेटिंग आफिसर की धारा है। धारा-13 डैजिगनेटेड अथॉरिटी है, जिसमें सिविल कोर्ट की पावर है। धारा-23 स्पेशल कोर्ट से संबंधित है और धारा-34 में हाईकोर्ट में अपील करने की पावर है। मेरी समझ में यह बात नहीं आ रही है कि रिव्यू कमेटी को जो आप पावर दे रहे हैं, उस रिव्यू कमेटी की पावर कैसे बाइंडिंग हो जाएगी। एक तरफ स्पेशल कोर्ट बनी हुई हैं और जो भी इन्वैस्टिंग आफिसर होगा, उससे एप्रूवल लेकर चालान किया जाता है। यह आफिसर राज्य सरकार का आईजी भी हो सकता है। सारा मामला कोर्ट देखना शुरु कर देगा। आपने अमेंडमेंट में कहा है -

> "Without prejudice to the other provisions of this Act, any Review Committee constituted under sub-section (I) shall, on an application by any aggrieved person, review whether there is a *prima facie* case for proceeding against the accused under this Act and issue directions accordingly. "

एक्ट की धारा-16 के मुताबिक रिटायर्ड जज होगा, जो हाईकोर्ट या सुप्रीम कोर्ट की परमीशन से लेना होगा। वहां आलरैडी जज काम कर रहा है, स्पेशल कोर्ट आलरैडी बनी हुई है और यह मामला वहा चला जाएगा। मेरी समझ में यह बात नहीं आ रही है कि यह एडमिनिस्ट्रेटिव बाडी है, जिसको आपने जुडिशियल पावर दी है, वह केस को कैसे जाकर विदड्रा कर लेगा और वह निर्णय राज्य सरकार या केन्द्र पर लागू होगा। यह बात हमको समझ में नहीं आ रही है। हो सकता है, मुझे गलतफहमी हो। मंत्री जी जब जवाब दे, तो इस बारे में बतायें।

दूसरे, पोटा के बारे में खामियां पहले बताई जा चुकी हैं। मैं ज्यादा समय नहीं लूंगा, केवल दो-तीन बातें आपके सामने रखना चाहता हूं। श्री वैको का उदाहरण हमारे सामने हैं। श्री वैको और श्री कन्नप्पन के संबंध में बीजेपी के प्रैजीडेंट कहते हैं कि उन पर पोटा लागू नहीं होता है। राज्य में पोटा आलरैडी लागू है। भारत सरकार के मंत्री जाकर मिलते हैं और वहां की सरकार कहती है कि हम सैन्ट्रल मिनिस्टर को पोटा में बन्द कर देंगे।

**श्री रघुनाथ झा (गोपालगंज)** : प्रधान मंत्री जी को चिट्ठी लिखी है।

**श्री राम विलास पासवान** : इन परिस्थितियों में हर राज्य में विरोधी दल के लोग हैं। इस प्रकार हर राज्य के विरोधी दल के लोगों को और भारत सरकार के मंत्री को पोटा के अन्तर्गत बन्द कर सकते हैं।

एक बार कोई पोटा के अन्दर चला गया तो आप हल्ला करते रहिए, आप चिल्लाते रहिए, उनको कह सकते हैं कि उन्होंने एलटीटीई का समर्थन किया था, उधर रघुराज प्रताप सिंह ने किस का समर्थन किया था, उनके पिताजी ने किस का समर्थन किया था? â€¦ (व्यवधान) मैं इस बारे में किसी सरकार का नाम नहीं लेना चाहता। हम राजनीति में आज नहीं आए हैं। हमें राजनीति में आए 34 साल हो गए हैं। मैं 1969 में एमएलए था। प्रिवैंटिव डिटैंशन एक्ट हुआ, नेशनल सिक्योरिटी एक्ट हुआ, मीसा हुआ, टाडा हुआ, पोटा हुआ। टाडा का भारतीय जनता पार्टी के लोग विरोध करते रहे हैं जिस का कोई हिसाब-किताब नहीं है ,लेकिन होता क्या है? सरकार सरकार होती है सरकार में न एनडीए की सरकार लिखी जाती है, न कांग्रेस की सरकार लिखी जाती है, भारत सरकार लिखा जाता है। हम जब विरोधी पक्ष में रहते हैं तो खूब विरोध करते हैं और जब सरकार में चले जाते हैं तो समझते हैं कि इसके बगैर काम नहीं चल सकता। मैं कहना चाहता हूं कि बहुत सारे कानून हैं। यदि हमारा इंटैलिजैंस ठीक रहता तो संसद में उग्रवादी आकर क्या हमारे आठ कर्मचारियों को मार देते? मैं उनको धन्यवाद देना चाहता हूं। यदि हमारे वे आठ कर्मचारी नहीं होते तो हम सब का क्या होता? यह सारा मामला कुछ नहीं है। आप इस संशोधन को खत्म कर दीजिए। हमने ऐसे जितने कानून बनाए हैं, उतना ही उग्रवाद बढ़ रहा है। इसलिए पूरे के पूरे पोटा के कानून को विदड्रा कीजिए, खत्म कीजिए। देश में एक बार बिना पोटा और बिना टाडा कानून का इस्तेमाल करके देखिए।

**श्री अब्दुल रशीद शाहीन (बारामूला) :** जनाबेआला, मैं दो मिनट के मुख्तसर अरसे में आपकी वसातत से मुअज्जि ऐवान की तवज्जो एक-दो लफ्जों की तरफ मबजूल कराना चाहता हूं। हमने जिस वक्त एक्स्ट्रा ऑर्डिनरी सैशन में यह कानून पास किया था, इसके खिलाफ 296 वोट पड़े थे। उस वक्त हमारी तवक्को यह थी कि जो कश्मीर में एक घबराहट थी और मिलिटैंसी का बहुत दौर चल रहा था, शायद यह कानून एज ए डिटरैंट काम करेगा लेकिन बदकिस्मती से यह कहना पड़ता है कि वह खदशात दुरुस्त साबित हुए जो इस ऐवान में मुअज्जि मैम्बरान ने जाहिर किए थे कि इस कानून का इस्तेमाल दुरुस्त नहीं होगा। हमारे सामने ऐसी मिसालें हैं जिससे यह साबित हो चुका है कि इस कानून का इस्तेमाल दुरुस्त नहीं हुआ और मिलिटैंसी में इससे कोई फायदा नहीं हुआ क्योंकि जो लोग बन्दूक लेकर, अपनी जान लड़ा कर इस मुल्क के निजाम को दरहम-बरहम करना चाहते हैं, उन्हें इस कानून से कोई असर नहीं हुआ है। अलबत्ता हमारे नौजवान तालिब इल्म जो मुहब्बे वतन लोगों के बच्चे हैं और इस मुल्क में इस उम्मीद के साथ मुख्तलिफ तालिमी इदारों में आ रहे थे कि यहां हमें ताफूज मिलेगा, बदकिस्मती से वे आज घबराए फिरते हैं और पुलिस को बाजाप्ता खिराज अदा करते हैं। हमारे सामने कुछ मिसालें आईं। शामली में एक एग्रीकल्चरल कालेज के तालिब इल्म के पास दो आदमी सो कॉल्ड स्पैशल स्टाफ के आए और उन्होंने एक लड़के का पता पूछा। वह उनके घर तक चला गया, उसे भी उठा लिया और साथ ही पोटा में बंद कर दिया। उसके मुहब्बे वतन मां-बाप जो वहां मिलिटैंसी के दबाव से परेशान हैं उनका घर जला हुआ है। वे आज यहां घूमते फिर रहे हैं कि कोई उनकी बात सुने ताकि उनको इसमें कोई मदद मिले।

जनाबेआला, इस वक्त जो अमैंडमैंट सामने आई है, शायद हमारे बुजुर्ग साथी श्री वाइको की मदद इससे हो सकती है जो बहुत जोर से यहां पोटा के हक में बोले थे। शायद इसी तवक्का के साथ कि इससे कुछ मदद मिलिटैंसी को रोकने और मूल्क के दुश्मन लोग की सरगर्मियां रोकने में होगी,लेकिन वह खुद इस वक्त इसके दायरे में बंद हैं। इतने सारे लोग उसके हक में बोलते हैं, उनकी बात भी सुनी नहीं जाती है। शायद इस अमैंडमैंट से उनको फायदा होगा लेकिन हमारे उन तालिब इल्मों इल्म को, उन लोगों को जो यहां बहुत परेशानी में और घबराहट में घूमते हैं, जिन को पुलिस के पास खिराज अदा करना पड़ता है, न उनकी बात कोई सुनेगा, न उनको कोई मदद करेगा। इसलिए मैं सरकार से दरख्वास्त करता हूं कि हमने डीएआर से लेकर मिसा तक और पोटा तक जितने कानून आजमाए, वे इस सिलसिले में कामयाब नहीं रहे। मैं यह दरख्वास्त करूंगा कि हमारे मूल्क की जम्हूरियत के उजले चेहरे से इस बदनुमा दाग को हटा दीजिए और इस कानून को हमेशा के लिए बर्खास्त करिए। यह मेरी पार्टी नेशनल कॉन्फ्रेंस का प्वाइंट ऑफ व्यू है।

DR. C. KRISHNAN (POLLACHI): Hon. Speaker, Sir, I thank you very much for giving me this opportunity. The discussion on POTA is being carried out. Throughout India and, why not, the world over, it is spoken that Shri Vaiko was arrested and kept in jail by misuse of POTA. All the Tamilians world over are speaking on the misuse of POTA by the Government of Tamil Nadu.

If Sarojini Naidu was the Nightingale of India, Shri Vaiko is the Nightingale of Parliament because all those who spoke about Shri Vaiko were very much impressed by his speech. ...(*Interruptions*) Such a person, such an important parliamentarian is kept in the Vellore jail for the past 525 days just because of the misuse of POTA by the Government of Tamil Nadu.

The Act, POTA was passed in the Joint Session in the Central Hall of Parliament with the good intention of curtailing the activities of terrorists who have been a threat to the integrity and sovereignty of our country. But the State, particularly Tamil Nadu has misused it only against political opponents leaving the militants and the anti-nationals aside.

This ruthless and crooked attitude of the Government of Tamil Nadu using POTA as a coward's weapon against political opponents made my innocent leader, Thiru Vaiko and eight others to languish in Vellore prison in Tamil Nadu for the past 525 days under POTA. ...(*Interruptions*)

SHRI ADHI SANKAR : Why are you afraid? ...(*Interruptions*)

DR. C. KRISHNAN : The misuse of POTA has been acknowledged in the Supreme Court of India by the Attorney

General of India and I quote it:

> "It is clarified that whilst the Government of India fully supports the constitutionality of the Prevention of Terrorism Act, 2002, it is of the view that the speech delivered by Shri Vaiko on 29-06-2002, if properly interpreted and read in the entire context of the speech and surrounding circumstances, does not attract the provisions of Section 21 of POTA."

MR. SPEAKER: Dr. Krishnan, please sit down. Your time is over.

DR. C. KRISHNAN : This is very evident that POTA has been misused and the very purpose and intention of the Government in bringing the Act of POTA for prevention of terrorism in the country has been misfired. ...(*Interruptions*)

MR. SPEAKER: I agree with you.

DR. C. KRISHNAN : Thiru Vaiko was arrested on 11th July, 2002 for making a statement at a public meeting and that was what he had stated in Parliament. ...(*Interruptions*)

MR. SPEAKER: Please sit down. Your time is over.

DR. C. KRISHNAN : He was arrested invoking Section 21 of POTA. This Section 21 of POTA restricts freedom of expression and hence it is violative of article 19 (1)(a) of the Constitution and, therefore, unconstitutional.

MR. SPEAKER: Dr. Krishnan, you can place your speech on the Table of the House.

DR. C. KRISHNAN : This particular section directly attempted to curtail citizens' freedom of speech and expression and the right to assemble peacefully for a public meeting. ...(*Interruptions*)

MR. SPEAKER: Now, Dr. Krishnan's speech will not go on record.

*(Interruptions) ...(Not recorded)*

DR. C. KRISHNAN : Please give me only one minute.

MR. SPEAKER: This is the last minute I am giving to you.

DR. C. KRISHNAN : Sir, 301 Members of Parliament belonging to 36 parties unitedly condemned the detention of Shri Vaiko.

My party, MDMK, is of the view that POTA as such is unwanted and it should be withdrawn totally as there are many other laws to act upon terrorist organisations. ...(*Interruptions*)

The MDMK, headed by Thiru Vaiko, feels that if we welcome the Ordinance empowering the Review Committee formed at the Centre with more powers, it would help prevent misuse of POTA by irresponsible Governments like the Government of Tamil Nadu. ...(*Interruptions*)

**श्री राजेश रंजन उर्फ पप्पू यादव (पूर्णिया) :** अध्यक्ष महोदय देश की आजादी के 56 साल के पहले से ही गलत कानूनों से इस देश के गरीब और सामाजिक लोग पिस चुके हैं। चाहे मोका हो, एन.एस.ए. हो, टाडा हो या मीसा हो, ऐसे कई कानून इस देश में आये हैं। हमारा पूरा का पूरा परिवार मीसा में पिस चुका है। आज जो कानून लाया गया है, मैं नहीं मानता कि यह कानून गलत है या सही है, जो कानून आतंकवाद के विरुद्ध लाया जाता है, देश के लोकतंत्र की रक्षा के लिए लाया जाता है, निश्चित रूप से उस कानून को मजबूत बनाना चाहिए। लेकिन सवाल उठता है कि हमारे देश में पहले से ही संविधान में मजबूत कानून निहित हैं। चाहे कोई राजनीतिक पार्टी हो, सामाजिक व्यक्तित्व हो, डाक्टर हो या पत्रकार हो, यदि इन लोगों पर आतंकवाद के आरोप लगाकर इस कानून का उपयोग किया जाता है तो वह गलत है। मैं आदरणीय उप-प्रधान मंत्री जी से कहना चाहूंगा कि इस बिल में यह अमैन्डमैन्ट होना चाहिए। पहले से ही जब हमारे पास सक्षम कानून हैं और यदि कोई संविधान की धारा को तोड़कर, कानून को तोड़कर कोई कार्रवाई करता है तो न्यायालय में पहले से कानून मौजूद हैं और उनके तहत उस पर कार्रवाई होगी। लेकिन किसी राजनीतिक पार्टी, पत्रकार, डाक्टर या किसी सामाजिक कार्यकर्ता पर, जिन्होंने देश के हित में काम किया है, उन पर पोटा जैसा कानून किसी भी कीमत पर कोई राज्य और केन्द्र न लगा सके, यह अमैन्डमैन्ट इसमें आना चाहिए।

मेरा दूसरा आग्रह यह है कि आपने रिव्यू कमेटी बनाई है। लेकिन जो लोग पकड़े जायेंगे, जेल में डाले जायेंगे, साल भर जेल में रहेंगे, उनका मानसिक उत्पीड़न, उनकी आर्थिक, राजनीतिक और सामाजिक स्थिति साल भर मे खत्म हो जायेगी। वे अपना मानसिक संतुलन खो देंगे, इन सबकी भरपाई कैसे होगी। उस व्यक्ति की सामाजिक प्रतिठा का जो हनन होगा, उसकी भरपाई कौन करेगा। मैं चाहता हूं कि किसी भी व्यक्ति पर पोटा या कोई इस तरह का कानून लगता है तो उसके पहले वह मामला रिव्यू कमेटी में जाए और कमेटी डिसाइड करे कि यह कानून इस पर लगाया जाना चाहिए या नहीं। यदि रिव्यू कमेटी ऑर्डर देती है, तभी उस पर कोई कार्रवाई होनी चाहिए। यह नहीं होना चाहिए कि पहले कार्रवाई हो जाए और उसके बाद वह रिव्यू कमेटी में जाए।

मेरा तीसरा आग्रह यह है कि रिव्यू कमेटी की सीमा क्या होगी, इसकी अवधि क्या होगी। क्या इसकी अवधि 15 दिन, एक महीने या दो महीने होगी। अंत में उप-प्रधान मंत्री जी मैं आपसे आग्रह करना चाहता हूं कि सामाजिक, आर्थिक और मौलिक अधिकार के कारण आज समाज में असंतुलन है और इस असंतुलित व्यवस्था के कारण हमारे देश के अंदर उग्रवाद तथा अन्य ताकतें पनप रही हैं, हमें इसका भी ख्याल रखना चाहिए। आर्थिक विामता के कारण निश्चित रूप से आज हमारे यहां उग्र

वाद पनप रहा है। जिस प्रकार आप अभी टैरेरिस्ट्स को सरेन्डर करवाकर फौज में भर्ती कर रहे हैं, यह एक बहुत बड़ी उपलब्धि है। यदि इसी तरह से देश के अंदर पनप रहे उग्रवादियों को, जिन्हें सामाजिक असंतुलन के कारण उनका अधिकार नहीं मिलता, यदि उन्हें आर्थिक और सामाजिक रूप से सुदृढ़ करके उनके अधिकार दिलाने का काम करेंगे तो यह बहुत अच्छा कदम होगा।

अंत में मैं कहना चाहता हूं कि दूसरे देशों में बहुत बड़े कानून हैं। लेकिन जो घिनौनी राजनीति इस देश में होती है, जयललिता जी, मायावती जी और लालू यादव जी जैसे लोग और देशों में नहीं हैं जो अपनी राजनीतिक प्रतिद्वंदिता के कारण किसी सामाजिक व्यक्ति की सामाजिक प्रतिठा का हनन करें।

**अध्यक्ष महोदय** : आप समाप्त कीजिए।

**श्री राजेश रंजन उर्फ पप्पू यादव** :गुजरात में जो घटना हुई, माननीय उप-प्रधान मंत्री जी 124 मुसलमान हैं, आप जैसे उदारवादी व्यक्ति को उन पर भी ध्यान देना चाहिए। मेरा निर्वाचन क्षेत्र जो झारखंड बिहार में आता है, वहां पर बच्चे, विद्यार्थी और 80 वर्ा के बूढ़े आदि हैं, मैंने कल भी आग्रह किया था। मुझे आशा है कि आप निश्चित रूप से उन पर ध्यान देंगे और आपको उस ओर ध्यान देना चाहिए। वाइको जी और राजा भैया पुन: कभी इस तरह से गिरफ्तार न हो सकें। ...(व्यवधान)... *

**अध्यक्ष महोदय :** इनका आगे कुछ भी रिकार्ड पर नहीं जायेगा।

MR. SPEAKER: Shri Rajesh Ranjan *alias* Pappu Yadav, nothing is going on record what you say now. Please sit down. Now, Shri Prakash Yashwant Ambedkar to speak.

*(Interruptions)**

**अध्यक्ष महोदय :** प्लीज़ बैठिये, यह सब रिकार्ड पर नहीं जा रहा है।

*(Interruptions)**

**** Not Recorded.***

SHRI PRAKASH YASHWANT AMBEDKAR (AKOLA): Even after the 11th September, 2002, the United States of America enacted a law in which they protected the rights of the American citizen. Individual liberty, I think, is one of the respected rights which is enshrined in the Constitution.

I have held a Seminar against the POTA in which many things have come up, which I will not mention here. However, I will mention a few things.

One of them is that POTA is being misused by the police for extortion. In cases that have been referred to the Governments or even to the Central Government, no action has been taken against the police forces who are misusing and blackmailing the common man saying that either he pays to them or he will be booked under POTA. This is one of the most important things which has happened after the POTA has come into action.

The other thing which is most important and on which I would like to have a reply from the hon. Prime Minister himself is that this is an Act which is against the terrorists. We have been demanding that Pakistan be declared as a terrorist State by the American Government. May I know from the Government about it? We have entrusted printing of Indian currency to Pakistan, once a State which we are asking for to be declared as a terrorist State. May I know from the Government whether those who are responsible for entrusting the printing of the Indian currency in Pakistan will be booked under the POTA? Today, we have fake currency notes in this country. Where are they originating from? My question to the Government would be whether those officials who are responsible for printing the Indian currency in Pakistan would be booked or not. This is my specific question. If you do not book them, then, this Act becomes redundant because it is going to be used for political purpose.

MR. SPEAKER: Now, the hon. Deputy Prime Minister will speak.

...(Interruptions)

SHRI G.M. BANATWALLA (PONNANI): Sir, I should be allowed to speak for a few minutes. ...(Interruptions)

MR. SPEAKER: Mr. Deputy Prime Minister, he wants to speak for two minutes. Please sit down.

...(Interruptions)

SHRI G.M. BANATWALLA : Sir, I thank you very much for giving me an opportunity to participate in the debate. I will be very brief and say that the entire Opposition had warned the Government earlier that POTA will be misused and there will be large-scale misuse. Now, the Government has come up with an amending Bill. This amendment Bill is a vindication of the Opposition's point of view. This amendment Bill is an admission of the fact that there has been a large scale abuse of the Act. Mere cosmetic changes are not going to help. It is a law-less law and a lawless law is prone to be used and abused on a large scale. There is an abuse of law whether it is in Gujarat, Maharashtra, Jharkhand or any other State. In Gujarat, in the case of Godhra, all accused are under POTA, but the post-Godhra Gujarat massacre accused are not under POTA. The Islamic Centres of Learning, which were supporting Gandhiji in our freedom struggle, are being threatened today.

That is the point of view. Several organisations and their leaders are threatening the minorities. But there is no POTA for them.

**श्री श्याम बिहारी मिश्र (बिल्हौर) :** अध्यक्ष महोदय, ये जो भी बात करते हैं, उसमें गुजरात कांड और गोधरा कांड को जरूर बीच में ले आते हैं। â€¦(व्यवधान)

SHRI G.M. BANATWALLA : These are the various facts and we have amply put them forward.

Here is this question of review committee. We are told the Centre did not abuse; but the States abused. But the Centre is guilty because Section 60 for appointment of review committee was already there in the Prevention of Terrorism Act. It provided for the appointment of a review committee; but for a long time, after the passing of the Act, the Centre did not appoint any review committee and connived with the misuse and large-scale abuse of POTA by the States. Only when they are now, today in a special predicament that this amendment has come and then in the case of the review committee there is no time limit also. I, therefore, say that cosmetic changes will not do.

MR. SPEAKER : Please conclude now.

SHRI G.M. BANATWALLA : Yes, sir.

This POTA is a lawless law and whether it is POTA or its amendment, all these must be thrown out lock, stock and barrel.

**उप प्रधान मंत्री तथा गृह मंत्रालय तथा कार्मिक, लोक शिकायत और पेंशन मंत्रालय के प्रभारी (श्री लालकृण आडवाणी)** : मान्यवर अध्यक्ष महोदय, आज प्रैंतःकाल हमने एक महत्वपूर्ण संविधान विधेयक पारित किया और दोपहर के बाद से लेकर के एक दूसरे महत्वपूर्ण विाय पर हमने चर्चा शुरू की है। संयोग है कि जब पोटा के संशोधन विधेयक पर संसद में चर्चा हो रही थी, उसी दिन देश के उच्चतम न्यायालय ने भी इस विाय पर एक अति महत्वपूर्ण निर्णय दिया था। यह भी संयोग है कि यहां पर जितनी चर्चा हुई, उसमें सबसे अधिक अगर किसी नाम को लिया गया, तो वह हमारे एक सहयोगी, साथी, संसद के सदस्य, तामिलनाडु से निर्वाचित श्री वैको का लिया गया और जो उच्चतम न्यायालय में जो मामला आया था, वह भी वैको की ओर सो और कुछ अन्य संस्थाओं पी.यू.सी.एल. जैसी संस्थाओं की ओर से लाया गया था। उसमें एक बैंत यह भी थी कि जो बैंत यहां पर भी कभी-कभी कही गई कि यह कानून ही संविधान के खिलाफ है और उसके कुछ प्रावधान, खासकर 20, 21 और 22 जिनका जिक्र कुछ माननीय सदस्यों ने किया कि वे तो बिलकुल संविधान के खिलाफ हैं और उनको अल्ट्रा वायरस मानकर स्ट्राइक डाउन करना चाहिए। मैं पूरा जजमेंट तो नहीं पढ़ सकता, लेकिन मैं मानता हूं कि यह अत्यन्त महत्वपूर्ण जजमेंट है। आतंकवादियों पर और उसमें भी पोटा कानून के संदर्भ में उसके दूरगामी परिणाम होंगे। इसके उपयोग पर भी या सही रूप से प्रयोग हो, यदि गैलत रूप से इसका उपयोग करें, तो इसको साइट किया जाएगा, क्योंकि यह बैंत गैलत नहीं है। उन्होंने किसी विशेा कानून को, विशेा मामले को लेकर निर्णय नहीं दिया है, लेकिन मैं मानता हूं कि देश के उच्चतम न्यायालय का कहना है कि-

> "Our country has been the victim of an undeclared war by the epicentres of terrorism with the aid of well-knit and resourceful terrorist organisations engaged in terrorist activities in different States such as Jammu and Kashmir, North-Eastern States, Delhi, West Bengal, Maharashtra, Gujarat, Tamil Nadu, Andhra Pradesh"

और फिर एक-एक कर के कई घटनाएं गिनाई गई हैं और संसद के ऊपर हमले का उल्लेख किया है, फिर जम्मू-कश्मीर की विधान सभा के ऊपर हमले का उल्लेख किया है।

अक्षरधाम की घटना का उल्लेख किया है, जो यूएस इन्फोरमेशन सेंटर कलकत्ता में है, उसके ऊपर हमले का उल्लेख किया है, श्रीनगर, सीआरपीएफ, कैंप अटेक, 22 नवम्बर, 2002 और फिर नारीमर्ग इच्ण्द्धत्यादि सभी का उल्लेख करने के बाद कहा है □

> "The latest addition to this long list of terror is the recent twin-blast at Mumbai that claimed about 50 lives. "

Thereafter, it says:

> "This cannot be equated with a usual law and order problem within a State. On the other hand, it is inter-State; it is international or cross-border in the character. It is a challenge to the whole nation, an invisible force of Indianness that binds this great nation together. Therefore, terrorism is a new challenge for law enforcement.
>
> In the above-said circumstances, Parliament felt that a new anti-terrorism law is necessary for a better future. This parliamentary resolve is epitomised in POTA. "

This is the opinion given by the highest judiciary in the country. Then, it goes on to deal with the specific objections that had been raised by those who had gone to court, the petitioners. उन्होंने जो कहा था, मैं उसे भी पढ़ना उचित समझता हूं। उन्होंने कहा □

"Petitioners assailed sections 20, 21 and 22 mainly on the ground that no requirement of *mens rea* for offences is provided in these sections and the same is liable to misuse. Therefore, it has to be declared unconstitutional."

ह्मारे भी कई साथी कभी-कभी कहते थे कि सैक्शन 20 क्यों नहीं परिवर्तित कर दिया जाए। इसमें साफ कर दिया जाए कि केवल मात्र किसी चीज के खिलाफ बोलना या कोई बैंत प्रकट करना, उसके आधार पर वह टेरेरिस्ट ऑपड्डेंस नहीं माना जाएगा। इसे इन्होंने डिटेल्स में एक प्रकार से एनालाइज़ करके, जिस प्रेरणा से संसद और सरकार ने इसे कानून बनाया, यह मान कर कि जैसा कानून हमने बनाया है, अगर कोई उसका दुरुपयोग करेगा तो कोर्ट उसे अपहोल्ड नहीं करेगा। आज लगभग हमारे पास, बाकी कोर्ट छैंड़िए लेकिन देश की उच्चतम न्यायालय की ओर से एक प्रकार से हमें इसका अर्थ मिल गया है। जिसमें उन्होंने कहा □

"At the outset, it has to be noted that sections 20, 21 and 22 of POTA are similar to sections 11, 12 and 15 of the Terrorism Act, 2000 of United Kingdom. Such provisions are found to be quite necessary all over the world in anti-terrorism efforts. "

मुझे क्रिमिनल ज्यूरिसप्रूडेंस के बारे में समझा रहे थे। कोर्ट ने यह भी कहा है □

"It is the cardinal principle of criminal jurisprudence that *mens rea* element is necessary to constitute a crime. It is the general rule that a penal statute presupposes *mens rea* element. â€¦

Offence under section 3(1) of POTA will be constituted only if it is done with an "intent". If Parliament stipulates that the terrorist act itself has to be committed with the criminal intention, can it be said that the person who professes or invites support or arranges, manages or assists in arranging or managing a meeting or addresses a meeting, has committed the offence, if he does not have an intention or design to further the activities of any terrorist &#0;rganization or the commission of terrorist acts? We are clear that it is not. Therefore, it is obvious that the offence under section 20 or 21 or 22 needs positive inference that the person has acted with intent of furthering or encouraging terrorist activity or facilitating its commission."

ह्मैं इसे पूरा पढ़ना नहीं चाहता हूं लेकिन कुल मिला कर एक एलोबरेट जजमेंट मिला है, जिसके आधार पर हम कह सकते हैं कि जिस उद्देश्य से हमने इस कानून को बनाया और संसद के संयुक्त अधिवेशन में उसे स्वीकार किया, उस अधिवेशन की पुटि आज देश के उच्चतम न्यायालय से प्राप्त हो गई है।

निश्र्चित रूप से हमने यह जो बैंत कही है कि हमारी जो रिव्यू कमेटी है, जिसका प्रोवीजन हमने अभी नहीं किया है, जिसका प्रोवीजन भी मूल कानून में किया गया था, लेकिन उसमें आशंका व्यक्त की गई थी कि रिव्यू कमेटी अगर कहेगी कि कानून का उपयोग सही नहीं है तो भी अगर कोई स्टेट कह देगा या केन्द्र सरकार कभी कह देगी कि नहीं, आपकी जो एडवाइस है, वह हम पर बाइंडिंग नहीं है, इसमें नहीं लिखा है कि बाइंडिंग है तो इस भ्रम को दूर करने के ैलए हमें लगा कि हम उसे बाइंडिंग बना देंगे तो उचित होगा। मैंने अभी-अभी एक नोटिस दूसरे एमेंडमेंट का दिया है, जो इस बैंत को और मजबाुत करता है, पुट करता है कि अगर कोई रिव्यू कमेटी इस प्रकार से निर्का निकालती है कि उपयोग सही नहीं है तो फिर उसके बाद वह आरम्भ से लेकर जो उसके खिलाफ कार्रवाई की गई है, वह वापस मानी जायेगी। यह एक और संशोधन मैं इसमें लाया हूं, जिसके कारण जो थोड़ा बहुत भ्रम रहेगा, वह भ्रम भी दूर हो जायेगा।

**श्री राम विलास पासवान** : यह ऑटोमेटिक है क्या?

Shri T.M. SELVAGANPATHI : Mr. Speaker, Sir, I have got one very important question to ask from the hon. Minister.

Shri L.K. ADVANI: I am not yielding to you. ...(*Interruptions*)

MR. SPEAKER: Please sit down.

Shri T.M. SELVAGANPATHI : Sir, it is a very important question. I plead before you, it is a very vital question. ...(*Interruptions*)

MR. SPEAKER: Please sit down.

...(*Interruptions*)

MR. SPEAKER: If the hon. Minister has not yielded, then you cannot ask questions from him.

...(*Interruptions*)

Shri T.M. SELVAGANPATHI : Mr. Speaker, Sir, he has yielded. ...(*Interruptions*) Sir, there are cases in which certain people are detained under the POTA, and in which the Supreme Court has clearly held that there is a *prima facie* case. Does the Government propose to say, in such situation, that the Review Committee is superior to the Supreme Court or not? We expect an answer on that aspect.

Shri L.K. ADVANI: Firstly, I would say that even in respect of the Review Committee, the provisions that have been made in the law are of such a nature where there is no reason for us to feel that the Review Committee will disregard what any court has said. If a court has said that there is a *prima facie* case, then no Review Committee can disregard it. But, as I said, we are a legislative body and when we move an amendment, we cannot override what the Judiciary has said. ...(*Interruptions*) Therefore, the formulation of the amendments has been of a nature where the Review Committee comes to a certain conclusion, and whatever it says may be binding on the Executive − whether it is the State Executive or the Central Executive. The Judiciary, of course, is supreme and we cannot do anything about it. But, today, the Judiciary being supreme, I feel very happy that we have had this kind of a judgement from the Judiciary. ...(*Interruptions*)

MR. SPEAKER: Please maintain silence in the House.

...(*Interruptions*)

Shri L.K. ADVANI: Incidentally, Shri Sarkar, you had asked me whether the Saharia Committee is the only Review Committee formed. I would like to tell you that there are eight States in the country that have formed Review Committees. These include Uttar Pradesh, Delhi, Jammu and Kashmir, Haryana, Jharkhand, Himachal Pradesh, Tamil Nadu, and Gujarat. ...(*Interruptions*) I have noticed that while there are no Review Committees in Maharashtra or Karnataka, there is a special court under POTA in Maharashtra, Jammu & Kashmir, Himachal Pradesh, Jharkhand, Tamil Nadu, Goa, Delhi, Sikkim, etc. I am pointing out all these things because of this. आज की चर्चा में दो प्रकार का विरोध था। एक विरोध वह था कि जो वास्तव में पोटा के कानून के खिलाफ था और इस कारण उन्होंने कहा कि इस प्रकार का संशोधन करने से पोटा के दुरुपयोग की जो समस्या है, वह हल नहीं होगी और इसीलिए हमारी मांग है कि पोटा को स्व्रङ्कैप किया जाये, पोटा को रिपील किया जाये। केवल एक माननीय सदस्य थे, जिन्होंने कहा कि यह संशोधन लाकर आपने पोटा के मूल उद्देश्य को ही ख्त्म कर दिया है और यह ए.आई.ए.डी.एम.के. के माननीय सदस्य ने कहा। मैं उनसे सहमत नहीं हूं। मैं इतना कहूंगा कि मूल पोटा का जितना प्रभाव था, वह आज भी ज्यों का च्ण्द्धत्यों है लेकिन उसका उपयोग सही रूप से हो, उसका उपयोग केवल मात्र आतंकवादियों के खिलाफ हो, केवल मात्र इधर उधर का कोई शब्द कह दे, उसके बराबर हो जाये तो जो बैंत सुप्रीम कोर्ट ने कही है, वह लागू होती है कि *mens rea* होना किसी भी प्रकार के पीनल लॉ में जरूरी है। वह *mens rea* अगर नहीं है तो फिर पोटा का उपयोग नहीं हो सकता। यह व्यवस्था हमने करने की कोशिश की है । मैं विश्वास करता हूं कि जो रिव्यू कमेटी होंगी, वे इस बैंत को जरूर ध्यान में रखेंगी। मैं समझता हूं कि मुझे इस समय और कुछ कहने की जरूरत नहीं है सिवाय इसके बीच में कुछ बैंतें और कही गयीं in relation to the Government's approach to the problem of terrorism. किसी और अवसर पर मैं विस्तार से बता सकूंगा कि किस प्रकार से भारत सरकार ने नाइन इलैवन के बाद नहीं लेकिन 1998 में सरकार संभालने के तुरंत बाद विश्व भर में बहुत सारे देशों से इस बैंत में सम्पर्क किया। उनको इस बैंत का अहसास देने की कोशिश की कि आतंकवाद एक भयंकर अभिशाप है जिसमें सारे विश्व को लगना चाहिए। अनेक देशों के साथ नाइन इलैवन से पहले हमने ज्वाइंट वर्किंग ग्रुप अगेन्स्ट टैरोरिज्म बनाया। अनेक देशों के साथ हमने म्युचुअल लीगल आसिस्टेंट ट्रीट्री साइन की। एक्स्ट्राडिशन ट्रीट्री साइन की। नाइन् इलैवन के बाद इस प्रक्रिया में और ताकत आई और मूवमैंटम आया क्योंकि नाइन इलैवन के बाद सारे विश्व में इस बैंत की अनुभूति हो गयी। इसलिए यह कहना कि हमने कुछ नहीं कहा, हम कर नहीं पाये, यह बैंत सही नहीं है। मैं समझता हूं कि जो लोग पोटा के खिलाफ हैं, उनको भी इसका समर्थन करना चाहिए क्योंकि आखिर तो रिव्यू कमेटी को स्ट्रैन्थन करना, एक प्रकार से उनको मजबूती देता है, जो यह चाहते हैं कि उसका दुरुपयोग न हो।

...(*Interruptions*)

MR. SPEAKER: As per the procedure, there is a right of reply to the Member. Therefore, Shri Basu Deb Acharia has the right to reply. If he wants to say anything, he can say that. If he does not want to say anything and join the walk-out, he can do that.

...(*Interruptions*)

**19.48 hrs.**

*(At this stage, Shri Shivraj V. Patil and some other*

*hon. Members left the House.)*

...(*Interruptions*)

MR. SPEAKER: The question is:

> "That this House disapproves of the Prevention of Terrorism (Amendment) Ordinance, 2003 (No. 4 of 2003) promulgated by the President on 27 October, 2003."

*The motion was negatived.*

...(*Interruptions*)

Shri BASU DEB ACHARIA : Sir, we are walking out in protest against non-repeal of POTA.

**19.48 ½ hrs.**

*(At this stage, Shri Basu Deb Acharia and some other*

*hon. Members left the House.)*

MR. SPEAKER: The question is:

"That the Bill to amend the Prevention of Terrorism Act, 2002, be taken into consideration."

*The motion was adopted.*

MR. SPEAKER: The House will now take up clause by clause consideration of the Bill.

**Clause 2 Amendment of Section 60**

MR. SPEAKER: Dr. Krishnan, would you like to move your amendments to clause 2?

DR. C. KRISHNAN : No, Sir.

Shri L.K. ADVANI: Sir, I beg to move:

"Page 2 *after* line 12 insertâ€”

"(7) Where any review committee constituted under sub-section (1) is of opinion that there is no *prima facie* case for proceeding against the accused and issues directions under sub-section (4) then the proceedings pending against the accused shall be deemed to have been withdrawn from the date of such direction." (5)

MR. SPEAKER: The question is:

"Page 2 *after* line 12 insertâ€”

"(7) Where any review committee constituted under sub-section (1) is of opinion that there is no *prima facie* case for proceeding against the accused and issues directions under sub-section (4) then the proceedings pending against the accused shall be deemed to have been withdrawn from the date of such direction." (5)

Shri K. MALAISAMY : Sir, we are opposing the amendment to clause 2.

DR. V. SAROJA : Sir, we want a division.

MR. SPEAKER: Dr. Saroja, are you really interested in opposing this seriously?

DR. V. SAROJA : Yes, Sir, we are seriously opposing this. We want a division.

MR. SPEAKER: Let the lobbies be clearedâ€”

MR. SPEAKER: Now, the Lobbies have been cleared.

The question is:

Page 2 *after* line 12 *insert* −

"(7) Where any review committee constituted under sub-section (1) is of opinion that there is no *prima facie* case for proceeding against the accused and issues directions under sub-section (4) then the proceedings pending against the accused shall be deemed to have been withdrawn from the date of such direction."(5)

*The Lok Sabha divided:*

**Division No. 8 Ayes Time : 19.51 hrs.**

Acharya, Shri Prasanna

Adhi Sankar, Shri

Aditya Nath, Yogi

Adsul, Shri Anandrao Vithoba

Advani, Shri L.K.

Ananth Kumar, Shri

Angle, Shri Ramakant

Argal, Shri Ashok

Arya, Dr. (Shrimati) Anita

Atkinson, Shri Denzil B.

Azad, Shri Kirti Jha

Baalu, Shri T.R.

'Bachda', Shri Bachi Singh Rawat

Badnore, Shri Vijayendra Pal Singh

Bainda, Shri Ramchander

Bais, Shri Ramesh

Bandyopadhyay, Shri Sudip

Banerjee, Kumari Mamata

Banerjee, Shrimati Jayashree

Barwala, Shri Surendra Singh

Behera, Shri Padmanava

Bhagat, Prof. Dukha

Bhargava, Shri Girdhari Lal

Bishnoi, Shri Jaswant Singh

Bose, Shrimati Krishna

Brahmanaiah, Shri A.

C. Suguna Kumari, Dr. (Shrimati)

Chakravarty, Shrimati Bijoya

Chandel, Shri Suresh

Chaubey, Shri Lal Muni

Chaudhary, Shri Haribhai

Chaudhary, Shri Ram Tahal

Chaudhri, Shri Manibhai Ramjibhai

Chauhan, Shri Shriram

Chautala, Shri Ajay Singh

Chikhalia, Shrimati Bhavnaben Devrajbhai

Choudhary, Shri Nikhil Kumar

Choudhry, Shri Padam Sen

Chouhan, Shri Nihal Chand

Chouhan, Shri Shivraj Singh

D'Souza, Dr. (Shrimati) Beatrix

Daggubati, Shri Ramanaidu

Dahal, Shri Bhim

Dattatraya, Shri Bandaru

Delkar, Shri Mohan S.

Deo, Shri Bikram Keshari

Dhikale, Shri Uttamrao

Diler, Shri Kishan Lal

Diwathe, Shri Namdeo Harbaji

Durai, Shri M.

Elangovan, Shri P.D.

Fernandes, Shri George

Gadde, Shri Ram Mohan

Gadhavi, Shri P.S.

Gandhi, Shrimati Maneka

Gangwar, Shri Santosh Kumar

Gautam, Shrimati Sheela

Gavit, Shri Ramdas Rupala

Geete, Shri Anant Gangaram

Gehlot, Shri Thawar Chand

Goel, Shri Vijay

Gohain, Shri Rajen

Gudhe, Shri Anant

Gupta, Prof. Chaman Lal

Haque, Mohammad Anwarul

Hussain, Shri Syed Shahnawaz

Jadhav, Shri Suresh Ramrao

Jag Mohan, Shri

Jagannath, Dr. Manda

Jagathrakshakan, Dr. S.

Jain, Shri Pusp

Jaiswal, Dr. M.P.

Jaiswal, Shri shankar Prasad

Jatiya, Dr. Satyanarayan

Javiya, Shri G.J.

Jayaseelan, Dr. A.D.K.

Jha, Shri Raghunath

Kannappan, Shri M.

Kashyap, Shri Bali Ram

Kaswan, Shri Ram Singh

Katara, Shri Babubhai K.

Kataria, Shri Rattan Lal

Kathiria, Dr. Vallabhbhai

Katiyar, Shri Vinay

Kaushal, Shri Raghuvir Singh

Khaire, Shri chandrakant

Khandelwal, Shri Vijay Kumar

Khandoker, Shri Akbor Ali

Khanduri, Maj. Gen. (Retd.) B.C.

Khanna, Shri Vinod

Khurana, Shri Madan Lal

Kriplani, Shri Shrichand

Krishnamraju, Shri

Krishnan, Dr. C.

Krishnaswamy, Shri A.

Kulaste, Shri Faggan Singh

Kumar, Shri Arun

Kumar, Shri V. Dhananjaya

Kuppusami, Shri C.

Kusmaria, Dr. Ramkrishna

M. Master Mathan, Shri

Mahajan, Shri Y.G.

Mahajan, Shrimati Sumitra

Maharia, Shri Subhash

Mahtab, Shri Bhartruhari

Mahto, Shrimati Abha

Majhi, Shri Parsuram

Malhotra, Dr. Vijay Kumar

Mallik, Shri Jagannath

Malyala, Shri Rajaiah

Mandal, Shri Brahma Nand

Mane, Shri Shivaji

Manjay Lal, Shri

Manjhi, Shri Ramjee

Mann, Shri Zora Singh

Meena, Shrimati Jas Kaur

Meghwal, Shri Kailash

Mehta, Shrimati Jayawanti

Mishra, Shri Ram Nagina

Mishra, Shri Shyam Bihari

Mohale, Shri Punnu Lal

Mohite, Shri Subodh

- Mohitepatil, Shri Pratapsinh Shankar Rao

Mookherjee, Shri Satya Brata

Moorthy, Shri A.K.

Munda, Shri Kariya

Muni Lall, Shri

Murmu, Shri Salkhan

Murthi, Dr. M.V.V.S.

- Voted through slip.

Nagmani, Shri

Naik, Shri Ram

Naik, Shri Shripad Yesso

Nayak, Shri Ananta

Nishad, Capt. Jai Narain Prasad

Nitish Kumar, Shri

Oram, Shri Jual

Palanimanickam, Shri S.S.

Pandey, Shri Ravindra Kumar

Pandeya, Dr. Laxminarayan

Panja, Dr. Ranjit Kumar

Paranjpe, Shri Prakash

Parste, Shri Dalpat Singh

Parthasarathi, Shri B.K.

Passi, Shri Raj Narain

Paswan, Dr. Sanjay

Paswan, Shri Sukdeo

Patasani, Dr. Prasanna Kumar

Patel, Dr. Ashok

Patel, Shri Chandresh

Patel, Shri Deepak

Patel, Shri Mansinh

Patel, Shri Prahlad Singh

Pathak, Shri Harin

Patil, Shri Annasaheb M.K.

Patil, Shri Bhaskarrao

Patil, Shri Danve Raosaheb

Patil, Shri Jaysingrao Gaikwad

Patnaik, Shrimati Kumudini

Pawaiya, Shri Jaibhan Singh

Ponnuswamy, Shri E.

Potai, Shri Sohan

Prabhu, Shri Suresh

Pradhan, Dr. Debendra

Pradhan, Shri Ashok

Prasad, Shri V. Sreenivasa

Radhakrishnan, Shri C.P.

Radhakrishnan, Shri Pon

Rai, Shri Nawal Kishore

Raja, Shri A.

Ram, Shri Braj Mohan

Ramaiah, Dr. B.B.

Ramaiah, Shri Gunipati

Ramachandran, Shri Gingee N.

Ramshakal, Shri

Rana, Shri Kashiram

Rana, Shri Raju

Rao, Shri Ch. Vidyasagar

Rao, Dr. D.V.G. Shankar

Rao, Shri Ganta Sreenivasa

Rao, Shri Y.V.

Rathwa, Shri Ramsinh

Ravi, Shri Sheesh Ram Singh

Rawale, Shri Mohan

Rawat, Prof. Rasa Singh

Rawat, Shri Pradeep

Ray, Shri Bishnu Pada

Reddy, Shri A.P. Jithender

Renu Kumari, Shrimati

Rudy, Shri Rajiv Pratap

Sahu, Shri Anadi

Sahu, Shri Tarachand

Sai, Shri Vishnudeo
Sangwan, Shri Kishan Singh

Sarkar, Dr. Bikram

Sathi, Shri Harpal Singh

Sengupta, Dr. Nitish

Sethi, Shri Arjun Charan

Shah, Shri Manabendra

Shanmugam, Shri N.T.

Shanta Kumar, Shri

Shashi Kumar, Shri

- Sikdar, Shri Tapan

Singh Deo, Shrimati Sangeeta Kumari

Singh, Capt. (Retd.) Inder

Singh, Ch. Tejveer

Singh, Shri Bahadur

Singh, Shri Brij Bhushan Sharan

Singh, Shri Chandra Pratap

Singh, Shri Chhattrapal

Singh, Shri Digvijay

Singh, Shri Maheshwar

Singh, Shri Prabhunath

Singh, Shri Radha Mohan

Singh, Shri Ramanand

Singh, Shri Ramjivan

Singh, Shri Rampal

- Voted through slip.

Singh. Shri Th. Chaoba

Sinha, Shri Manoj

Sinha, Shri Yashwant

Solanki, Shri Bhupendrasinh

Somaiya, Shri Kirit

Srikantappa, Shri D.C.

Srinivasulu, Shri Kalava

- Swami, Shri Chinmayanand

Swami, Shri I.D.

Thakkar, Shrimati Jayaben B.

Thakor, Shri Punjaji Sadaji

Thakur, Dr. C.P.

Thakur, Shri Chunni Lal Bhai

Thirunavukkarasar, Shri Su

Thomas, Shri P.C.

Tiwari, Shri Lal Bihari

Tomar, Dr. Ramesh Chand

Tripathee, Shri Ram Naresh

Tripathi, Shri Prakash Mani

Tripathy, Shri Braja Kishore

- Voted through slip.

Vajpayee, Shri Atal Bihari

Varma, Sh. Ratilal Kalidas

Vasava, Shri Mansukhbhai D.

Veerappa, Shri Ramchandra

Venkataswamy, Dr. N.

Venkateshwarlu, Shri B.

Venkateswarlu, Prof. Ummareddy

Venugopal, Shri D.

Verma, Dr. Sahib Singh

Verma, Prof. Rita

Vetriselvan, Shri V.

Vijaya Kumari, Shrimati D.M.

Vijayan, Shri A.K.S.

Virendra Kumar, Shri

Vukkala, Dr. Rajeswaramma

Wanaga, Shri Chintaman

Yadav, Dr. (Shrimati) Sudha

Yadav, Dr. Jaswant Singh

Yadav, Shri Dinesh Chandra

Yadav, Shri Hukumdeo Narayan

Yadav, Shri Pradip

Yadav, Shri Sharad

Yerrannaidu, Shri K.

Zawma, Shri Vanlal

**Noes**

Dalit Ezhilmalai, Shri

Dhinakaran, Shri T.T.V.

Kaliappan, Shri K.K.

Kumarasamy, Shri P.

Malaisamy, Shri K.

Murugesan, Shri S.

Pandian, Shri P.H.

Saroja, Dr. V.

Selvaganpathi, Shri T.M.

Sreenivasan, Shri C.

MR. SPEAKER: Subject to correction* , the result of the division is:

Ayes: 257

Noes: 10

*The motion was adopted.*

MR. SPEAKER: The question is:

"That clause 2, as amended, stand part of the Bill."

*The motion was adopted.*

*Clause 2, as amended, was added to the Bill.*

*Clause 3 was added to the Bill.*

MR. SPEAKER: Dr. C. Krishnan, are you moving your Amendment?

DR. C. KRISHNAN : No, Sir.

MR. SPEKAER: The question is:

"That clause 1 stand part of the Bill."

*The motion was adopted.*

*Clause 1 was added to the Bill.*

*The Enacting Formula and the long Title were added to the Bill.*

MR. SPEAKER: The Minister may now move that the Bill, as amended, be passed.

Shri L.K. ADVANI: Sir, I beg to move:

"That the Bill, as amended, be passed."

MR. SPEAKER: The question is:

"That the Bill, as amended, be passed."

*The motion was adopted.*

*The following members also recorded their votes through slip.

Ayes : 257+ Shri Tapan Sidkar, Shri Swami Chinmayanand and Shri Pratapsinh Mohitepatil = 260